

ZONING LAW
of the
TOWN OF NORTH DANSVILLE
Dansville, New York

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ZONING AND THE MASTER PLAN

A comprehensive Master Plan has been prepared which is a basic pattern for the future growth and development of the Town of North Dansville. The general objective of this plan is to provide for controlled community development in favorable patterns so that efficient and economic services will be available and that a desired residential environment will be assured.

This Zoning Law provides the means for attaining orderly community improvements with regard to land use, traffic flow and public facilities and utilities. The Law is in accord with the goals of the well-considered Master Plan for the Town of North Dansville. The specific regulations are based upon consideration of the health, safety, convenience, morals and general welfare of the community of North Dansville as a whole.

Land is the foundation of North Dansville's physical and economic growth. It is imperative that the land will be used for the maximum benefit to the community. This is the purpose of the Zoning Law.

TOWN OF NORTH DANSVILLE PLANNING BOARD

**ARTICLE I
ENACTMENT AND DEFINITIONS**

SECTION 101 TITLE

101.1 This law shall constitute and be known as the "Zoning Local Law of the Town of North Dansville, New York" and may be cited as such.

SECTION 102 PURPOSE AND INTENT

102.1 The purpose of this law is to encourage the most appropriate use of land throughout the Town and to conserve the value of property, with due consideration for the character of the zones and their peculiar suitability for particular uses; all in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undo concentration of population, and to that end to regulate the height, design appearance, number of stories and size of buildings and other structures, and land for trade, industry, residence or other purposes; and the height, size and location of these uses within the limits of the Town.

102.2 For the purpose of this Local Law, all words used in the present tense include the future tense. All words in the plural number include the singular number, unless the natural construction of the word indicates otherwise. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The word "shall" is mandatory and directory. The word may "may" is permissive. The word "used" includes "designed, intended or arranged to be used".

SECTION 103 INTERPRETATIONS

103.1 In interpreting, construing and applying the provisions of the Law, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Law shall conflict, abrogate, or annul any other law, rule or regulation of the Town of North Dansville, previously adopted or which may hereafter be adopted and not in conflict with these Ordinances nor is it intended by this Local Law to interfere with or abrogate or annul any easements, covenants or other agreements between parties; however, that where this Local Law imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or Local Law, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this Law shall control.

SECTION 104 CONFLICTS WITH OTHER LAWS

104.1 Whenever the requirements of this Law are at variance with the requirements of any other lawfully adopted rules, regulations or laws, the most restrictive of those imposing the higher standards shall govern.

SECTION 105 VALIDITY AND SEVERABILITY

105.1 In case any section or provision of this Law shall be held invalid in any court the same

shall not affect any other section or provision of this Law, except so far as the section or portion so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION 106 REPEAL OF PRIOR LOCAL LAW

106.1 All prior Zoning Ordinances of the Town of North Dansville, regulating or restricting buildings, the use of lands, setoffs and setbacks are hereby repealed and rescinded.

SECTION 107 AMENDMENTS

107.1 This chapter may be amended by changing the boundaries of districts or by changing any other provision thereof, whenever the public necessity and convenience and the general welfare requires such amendment, by following the procedures set forth herein and the applicable requirements of state law.

107.1-1 Authorization to initiate amendments. An amendment to the text or the Zoning Map may be initiated by:

- (1) Resolution of intention of the Town Board.
- (2) Resolution of intention of the Planning Board.
- (3) Application by one (1) property owner or their agent.

107.1-2 Application for an amendment. A property owner or his agent may initiate a request for an amendment to this chapter by filing an application with the Town Clerk, using forms provided for such requests by the Town. Such application shall be accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of five hundred (500) feet of the exterior boundaries thereof and a filing fee as required in the Town's fee schedule established by resolution.

107.1-3 Public hearing on amendment. A public hearing shall be held by the Town Board on all proposals for an amendment. Notice of said hearing shall be provided as specified by the applicable provisions of state law.

107.1-4 Referral to Planning Board. The Town Board shall refer all applications for a zoning amendment to the Planning Board, when such was not initiated by such Board, for review and recommendation. The Town Board may also specify the time limit on the review by the Planning Board.

107.1-5 Hearing before the Town Board. When applicable, in no case shall any amendment or change be finally considered by the Town Board until all provisions of this chapter have been met. If the Town Board proposes to adopt an amendment that is substantially altered from the recommendation of the Planning Board, the Town Board may refer said proposed amendment back to the Planning Board for report and recommendation before adoption.

107.1-6 Notification of decision. The Town Board shall notify the applicant for amendment in writing of the Town Board's decision within five (5) days after the decision has been rendered.

107.1-7 Records of amendments. The Town Clerk shall maintain separate files and records of each amendment to this chapter, which shall be open to the public inspection upon request.

107.1-8 Whenever any petition for an amendment, supplement or change or the zoning or regulations herein contained or subsequently established shall have been denied by the Town Board, then no new petition including the text and/or map covering the same property or the same property and additional property shall be filed with of or considered by the Town Board until one (1) year shall have elapsed from the date of the first petition.

SECTION 108 EFFECTIVE DATE

108.1 This Law shall take effect immediately after the same shall have been published and posted, as provided by the Law of the State of New York.

SECTION 109 DEFINITIONS

Accessory Building: A building or use incidental and subordinate to the principal structure or use on the same lot.

Accessory Use: A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal lawful use or building.

Alley: A public or privately owned service-way less than twenty-four (24) feet in width providing a secondary means of access to the abutting properties.

Alterations: As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another or demolition.

Apartment: Any structure housing three or more families or housekeeping units.

Basement: A story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade at the front of the building.

Board: The Town Board of the Town of North Dansville.

Boarding House: A dwelling other than a hotel or rooming house, where five (5) or more persons are housed or lodged for hire without meals.

Building: Any structure having a roof supported by columns, piers or walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

Building Area: The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

Building Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof for flat roofs; to the deck line of a mansard roof and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

Building Line: A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

Building Permit: See Zoning Permit.

Cellar: A story partly underground and having more than one-half (1/2) of its clear height below the average level of the finished grade at the front of the building.

Certificate of Occupancy: A certificate issued by the Zoning Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Law and such adjustments thereto granted by the Board of Appeals.

Certificate of Occupancy (Pre-Existing): A certificate issued by the Zoning Enforcement Officer, acknowledging that a building was pre-existing to the adoption of this Ordinance and that its use has continued without change and, therefore, may be occupied and used for the same purpose.

Club, Private: A nonprofit social organization whose premises are restricted to its members and their guests.

Cluster Development: A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

Commercial or Business: Means and includes the purchase, sale or transaction involving the disposition of any article, substance, commodity or service; the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit and also includes the renting of rooms, business offices and sales display rooms and premises.

Curb Level: The officially established grade of the curb in front of the midpoint of the lot.

Domestic Pets of the Household: A tame animal kept primarily for a person's company, protection or entertainment rather than as a working animal, sport animal, livestock or laboratory animal. An animal that resides inside the dwelling unit for the majority of the day. (example, dog, cat, small mammals)

Driveway: A roadway providing a means of access from a street to the property or off-street area. An access way may also be deemed a "driveway".

Dwelling: A building or portion thereof used exclusively as the residence or sleeping place of one or more persons.

Dwelling Unit: One or more rooms providing living facilities for one family including equipment for cooking, living and sleeping purposes and provisions for the same.

Dwelling, One-Family: A building or dwelling unit designed for or occupied exclusively by one (1) or more persons living as a single, nonprofit housekeeping unit.

Dwelling, Two-Family: A building containing two dwelling units and used exclusively for occupancy by two (2) families living independently of each other; or 2 one-family dwelling units having a party wall in common.

Dwelling, Multifamily: A building or portion thereof containing 3 or more dwelling units and used for occupancy by 3 or more families living independently of each other.

Dwelling, Row: A row of attached or semi-detached one-family dwellings or two-family dwellings containing a total of 3 or more dwelling units; or a building in such a row.

Dwelling, Detached: A dwelling having no party wall in common with another building.

Dwelling, Special Placement: Any building or premises occupied by three or more persons not related to the owners, lessee or operator by blood, marriage or adoption, who upon their release as patients from any recognized mental institution, treatment ward for alcoholism, treatment ward for narcotic addicts or as an inmate of any correctional penal institution, use such building or premises as living facilities in order to secure non-institutionalized care in their attempt to reenter society as healthy, happy and useful human beings. The operator must reside at such premises.

Family: One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Farm: Any parcel containing ten (10) acres or more of land which is used for gain in the raising of agricultural crops, but not including livestock, poultry or dairy products.

Farm Building: Any building used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this Article. The term "Farm Building" shall not include "farm dwelling".

Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected for the enclosure of yard areas.

Flammable Liquid: Liquids having a flash point below 200 degrees Fahrenheit, closed cup tester. Class I flammable liquids (e.g., gasoline, ether, liquid petroleum gas) are those having a flash point below 25 degrees Fahrenheit. Class II flammable liquids are those having a flash point below 70 degrees Fahrenheit but not below 25 degrees Fahrenheit.

Floor Area Total: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and useable for human occupancy or the conduct of business. Said areas shall be measured between the inside face of exterior walls, or from the center line of walls separating two (2) uses. Said areas shall not include areas below the average level of adjoining ground, garage space, or accessory building space.

Frontage: That portion of a parcel of property which abuts a street or highway.

Front Yard: An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line

and the front of such main building.

Garage: An accessory building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

Garage, Public: Any garage other than an accessory building, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other vehicles.

Home Occupation: Any occupation carried on as a subordinate use by a member of the family residing on the premises of a residential lot.

Hospital: An establishment for the medical and/or surgical care of sick or injured persons.

Hotel: A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied for sleeping purposes by transient guests and/or the general public and where only a general kitchen and dining room are provided within the building or in an accessory building.

Industry or Industrial: Means and includes storage, manufacture, preparation, processing or repair of any article, substance, or commodity and the conduct of the industrial trade but shall not mean such preparation, processing or repair as are customarily applied to articles, substances, or commodities in retail businesses or trade for on the premise transactions.

Junkyard: A lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. Two (2) or more disabled vehicles allowed to remain un-housed on a premises more than thirty (30) days will constitute a junkyard.

Kenel: Any premises on which four (4) or more dogs over four (4) months of age are kept.

Living Space: The gross area of the floors of a dwelling not including the areas of porches, garages, cellars, breezeways, furnace room and areas not used for home occupation.

Lot: A parcel or area of land, the dimensions and extent of which are determined by the latest official records or by the latest approved map of a subdivision of which the lot is a part.

Lot Area: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

Lot, Corner: A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The property lines bounding the lot. In the case of a lot abutting on more than one street, the owner may elect and street lot line the front lot line. the rear line shall be

the lot line most distant from the front line.

Lot, Through: An interior lot having frontage on two (2) parallel or approximately parallel streets.

Lot Depth: The horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

Lot Width: The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

Manufactured Home: Any building which is of closed construction which is made or assembled in a manufacturing facility on or off the building site for installation on the building site specifically designed to be placed on a permanent foundation intended for shelter, housing or enclosure of persons hereinafter referred to as a "dwelling". * Must comply with New York State Building and Fire Code Regulations. This shall not include a mobile home.

Motel: A building or group of buildings, whether detached or in connected units used as individual sleeping units designed primarily for transient automobile travelers and providing accessory off-street parking; and, if desired, restaurant facilities. The term "motel" shall also include tourist courts, motor lodges and similar uses.

Nonconforming Use: Any use of a building, structure, or land existing at the time of enactment of this Law which does not conform to the use regulations of the district in which it is situated.

Nonconforming Building: A building which in its design or location upon a lot does not conform to the regulations of this Law for the zone in which it is located.

Nonconforming Lot: A lot of record existing at the date of passage of this Law which does not have the minimum width or contain the minimum area for the zone in which it is located.

Planned Unit Development: For the purpose of this Law, a planned unit development is a cluster development consisting of a minimum of 200 homes plus business uses as described herein.

Planning Board: The Town of North Dansville Planning Board.

Plat: A map, plan or layout of a city, town, section or subdivision indicating the location and boundaries of individual properties.

Pre-constructed Storage Building: Any building which is of closed construction which is made or assembled in a manufacturing facility on or off the building site for construction or assembly and installation on the site exclusively for storage purposes, and requiring no permanent foundation.

Principal Building: A building in which is conducted the main or principal use of the lot on which said building is situated.

Principal Use: The main use to which a building or lot is to be used.

Rear Yard: An open space extending the full width of a lot between the rearmost main

building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

Restaurant: Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

Rooming House: A building in which three (3) or more rooms are rented and in which no table board is furnished.

Right-of-Way: The line determining the street or highway public limit or ownership.

Satellite Receiving Antenna: A device to receive television microwave transmissions.

Service Station or Motor Vehicle Service Station: Any building, structure or land used primarily for the dispersal, sale or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement or rebuilding, body and fender repair or painting.

Setback: The distance from a street or lot line to the wall or that part of a structure nearest said lot line, not including entrance steps, marquees or roof overhangs which are open to light, air and visibility. If a structure is of cantilever construction or is supported by beams or poles instead of walls, the setback shall be measured from the line to a point on the ground determined by dropping a plumb line vertically from the exterior wall of said structure nearest said line. All measurements shall be made at right angles from the line to the structure.

Side Yard: An open space extending from the front yard to the rear yard between any building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of any building.

Sign, On-Premise Advertising: A sign shall be deemed to be any advertising display on which is shown the products sold, the name of the enterprise located on that lot or parcel of land or any other wording which reflects directly upon any on-site business or other usage thereof.

Signboard, Billboard, Off-Premise Advertising: Any advertising display on which is shown any advertisement for products or businesses other than which are sold or have occupancy on that lot or parcel of land.

Sign Area: The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

Site Plan: A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

Solar Panels: Heat absorption panels used for storing or utilization of solar energy.

Story: That portion of a building between the surface of any floor and the surface of the floor next above; also any portion of a building used for human occupancy between the top-most floor and the roof. For the purposes of height measurement, in determining the permissible number of stories, a basement shall be counted but a cellar shall not be counted.

Story, Half: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite side exterior walls are not more than two (2) feet above the floor of such story.

Street: A public or private thoroughfare which affords the principal means of access to abutting property.

Street Line: That line determining the limit of the highway rights of the public, either existing or contemplated.

Structural Alterations: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Swimming Pool, Private: A swimming pool operated as a secondary use to a residential dwelling unit or units and located on an individual residential lot.

Swimming Pool, Public: A public or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and off-street parking area.

Temporary or Seasonal Occupancy: The use of any premises, structure or use for living and/or sleeping purposes for one hundred eighty (180) days or less in any calendar year.

Temporary Use: An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Law. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

Trailer or Mobile Home: A vehicle used for living or sleeping purposes, and standing on wheels or rigid supports.

Trailer Park: A tract of land where two or more trailers are parked, or which is used or held out for the purpose of supplying the public parking space for two (2) or more trailers.

True Value: The value of a property as a dollar amount derived from the assessed value shown on the tax card, divided by the equalization rate prescribed by the State, as shown on the following example:

$$\frac{\text{Assessed Value}}{\text{Equalization Rate}} = \text{True Value}$$

Use: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

Variance: To vary the strict application of any of the requirements of this law.

Windmills: An alternate energy device which converts wind energy, by means of a rotor, to mechanical or electrical energy. A wind generator may also be deemed as a "windmill".

Zoning Board: The officially established Zoning Board of Appeals of the Town of North Dansville.

Zoning Permit: A permit issued by the Zoning Enforcement Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under the Law for the zone in which it is located or is to be located.

**ARTICLE II
ADMINISTRATION**

SECTION 201 ENFORCEMENT

201.1 The duties of administering and enforcing the provisions of this chapter is hereby conferred on the Zoning Enforcement Officer who shall have such powers as are conferred upon him by this chapter and as reasonably may be implied. He shall be appointed annually by the Town Board and shall receive such compensation as the Town Board shall determine.

SECTION 202 DUTIES OF THE ENFORCEMENT OFFICER

202.1 The duties of administering and enforcing the provisions of this chapter are hereby conferred on the Zoning Enforcement Officer who shall have such powers as are conferred upon him by this chapter and as reasonably may be implied. He or she shall be appointed annually by the Town Board and shall receive such compensation as the Town Board shall determine. It shall also be the duty of the Zoning Enforcement Officer to notify the Town of North Dansville Building Inspector and the Superintendent of Public Works of all zoning permit applications within seventy-two (72) hours of their receipt.

202.2 Where the Zoning Enforcement Officer, in the course of his or her duties, determines that any plans, buildings or premises are in violation of the provisions of this Law, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked by the Town and the violator's rights of appeal: all as provided for by this Law.

202.3 The Zoning Enforcement Officer shall have the authority to secure from the appropriate Town Justice a stop order to constrain the continuance of the violation until the conditions of the violation have been remedied.

202.4 On the serving of the notice by the Zoning Enforcement Officer to the owner of any violation of any provisions of the Law, the Certificate of Occupancy for such building or use shall be held null and void. A new Certificate of Occupancy shall be required for any further use of such building or premises.

202.5 The Zoning Enforcement Officer shall maintain a permanent record of all matters considered and all actions taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Town Board and other officials of the Town. The records to be maintained shall include at least the following:

202.5-1 **APPLICATION FILE.** An individual permanent file for each application for a permit provided for by this Law shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps and plans, notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Appeals in acting on the application; and the date the permit applied for was issued or denied by the Zoning Enforcement Officer.

202.5-2 **MONTHLY REPORT.** The Zoning Enforcement Officer shall prepare a monthly report for the Town Board. Said report shall cite all actions taken by the Zoning Enforcement Officer including all referrals made by him; all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereon. A copy of the monthly report shall also be transmitted by the Zoning Enforcement Officer to the Tax Assessor, Planning Board and the Board of Appeals at the same time it is transmitted to the Town Board.

SECTION 203 CERTIFICATES AND PERMITS

203.1 The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Law. A Zoning Permit or Special Use Permit shall be a prerequisite to the erecting or altering of a building, structure, or use thereof. Building/use and special use permits issued pursuant to this section shall expire in one (1) year unless the project is completed. If the project is not initiated within six (6) months the permit issued shall be considered null and void. If the project is not completed in one (1) year the applicant may request an extension for a period of up to one (1) year. Applicant shall justify the need for the proposed extension.

203.1-1 **ZONING PERMIT.** The Zoning Enforcement Officer is hereby empowered to issue a Zoning Permit for any plans regarding the construction or alteration of any building or part of any building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this Law.

203.1-2 **SPECIAL USE PERMIT.** Upon written direction of the Board of Appeals, the Zoning Enforcement Officer is hereby empowered to issue any Special Use Permit provided for by this Law.

203.1-3 **CERTIFICATE OF OCCUPANCY.** The Zoning Enforcement Officer is hereby to issue a Certificate of Occupancy for a new structure, or before an occupancy for an existing structure which has been structurally altered or removed, or has had a change in proposed use, which shall certify that all provisions of this chapter have been complied with in respect to the location and use of the building structure or premises in question and complies with the New York State Building and Fire Code Regulations.

SECTION 204 APPLICATION PROCEDURE

204.1 **PROCEDURES FOR A ZONING PERMIT.** All applications for Zoning Permits shall be made to the Zoning Enforcement Officer in the detail specified in Section 205 of this Law. Where the proposed use is farm-related or a single family residential use in a residential or agricultural zone, the Zoning Enforcement Officer shall carefully consider the application and supporting documents for compliance with this Law and either issue or deny the Zoning Permit applied for. When the application is for any other use, including mobile home parks, in any zone, within seven (7) days the Zoning Enforcement Officer shall, prior to the issuance of any Permit, refer one (1) copy of such plans, drawings and statements to the Planning Board and one (1) copy to the Town Engineer for their review and recommendations. The Planning Board shall determine that the proposed site plans and structures will compare favorably with community standards, other neighborhood improvements and the properly intended and planned appearance throughout any street or neighborhood. When applicable, the Planning Board shall request recommendations and/or a review of said application by the Town of North Dansville Building Inspector and/or Superintendent of Public Works. The Planning Board may require that a bond be posted for possible damage to Town property along the road or roads of construction-related vehicles to and from the building site.

The Planning Board shall, within thirty (30) days after receipt of said material, approve or disapprove the proposed development or construction. In the event of disapproval, the reasons shall be stated clearly to the Zoning Enforcement Officer in writing. The Zoning Enforcement Officer shall deny a Zoning Permit for the proposed construction until such conditions as the disapproval is based upon have been corrected and written approval of the Planning Board is obtained. The absence of a reply from the Planning Board within the thirty (30) day period shall constitute approval and the Zoning Enforcement Officer shall proceed on the basis of such approval.

204.2 **PROCEDURE FOR A SPECIAL USE PERMIT.** All applications for Special Use Permits shall be made to the Zoning Enforcement Officer. The Zoning Enforcement Officer, after determining that an application is in the proper form, within seven (7) days, shall transmit one (1) copy of the application and all supporting documents to the Secretary of the Board of Appeals for referral to the Board for action thereon. At the same time, the Zoning Enforcement Officer shall transmit one (1) copy of the application and all supporting documents to the Planning Board for review of the site plan, and for an evaluation of the proposed use and its relationship and conformity to the goals and objectives and policies established by the Town Comprehensive Plan.

204.2-1 The Planning Board shall review the application and within thirty (30) days after the receipt of such application make a written report to the Board of Appeals setting forth its findings and recommendations concerning the application within seven (7) days of its findings. In making its recommendations, the Planning Board may suggest any revisions to the site plan or other plans as will, in its opinion, cause the proposed use to be in substantial conformance with the Comprehensive Plan and its principles of land use and development.

204.2-2 Within Fourteen (14) days of receipt of the recommendations of the Planning Board, the Board of Appeals shall conduct a public hearing on applications referred to it by the Zoning Enforcement Officer in accordance with the procedures and requirements established elsewhere in this Law. Within seven (7) days from the date of such public hearing, the Board of Appeals shall by resolution either approve or disapprove the application so heard. In approving an application, the Board may impose only those modifications or conditions specified in this Law to protect the health, safety or general welfare of the public.

A. If an application is approved by the Board of Appeals, the Zoning Enforcement Officer shall be furnished with a copy of the approving resolution of the Board and he shall issue the permit applied for in accordance with the conditions imposed by the Board of Appeals.

B. If an application is disapproved by the Board of Appeals, the reasons for such denial shall be set forth in the Board's resolution and a copy of such resolution shall be transmitted to the Zoning Enforcement Officer. The Zoning Enforcement Officer shall deny the application accordingly by providing the applicant the applicant with a copy of the Board's reasons for disapproval.

C. The Zoning Enforcement Officer shall transmit one (1) copy of all approved or denied applications to the Planning Board and one (1) copy of approved applications to the Town Tax Assessor.

204.3 **PROCEDURES FOR A CERTIFICATE OF OCCUPANCY**

- 204.3-1 Following the completion of the construction, reconstruction, an increase in number of dwelling units in any structure or structural alteration of any building, but prior to its occupancy, the applicant shall transmit a written statement to the Zoning Enforcement Officer stating that such construction has been completed and has been approved by the Town of North Dansville Building Inspector and Superintendent of Public Works when required. In the event that all approvals have not previously been obtained, the Zoning Enforcement Officer shall, within seventy-two (72) hours, direct the appropriate Town Officers to complete the necessary inspections. Within seventy-two (72) hours of the receipt of this notification, the Zoning Enforcement Officer shall make all necessary inspections of the completed structure to determine compliance with this chapter. A Certificate of Occupancy shall be issued only if the building inspector finds that the construction and proposed use comply with all the requirements and provisions of this chapter and the New York State Building and Fire Code.
- 204.3-2 A record shall be kept of all Certificates of Occupancy issued and original applications shall be kept on file in the same manner as application for all permits.
- 204.3-3 No owner, tenant or other person shall use or occupy any building or structure hereafter erected or altered use of which shall be changed after the passage of this chapter without first obtaining a Certificate of Occupancy, provided that a Certificate of Occupancy, once granted, shall continue in effect as long as there is no change of use regardless of any change in owner, tenant or occupancy.
- 204.3-4 Any person desiring the change of use of his premises shall submit a site plan to Zoning Enforcement Officer. Said site plan shall conform to the requirements of this chapter. The procedures in this section shall apply in consideration of a request for the issuance of a Certificate of Occupancy for a change in use and shall be transferred to the Planning Board for review and recommendation prior to issuance of a Certificate of Occupancy.
- 204.3-5 Zoning Enforcement Officer after determining that off-street parking and/or loading facilities required by this chapter are not being maintained in full compliance may revoke a Certificate of Occupancy issued for the building, structure or premises for which the off-street parking or loading facilities are required. The Zoning Enforcement Officer may also revoke or withhold the Certificate of Occupancy if specific mandates of any one or more of the advisory boards of the Town of North Dansville are not complied with.
- 204.3-6 The Zoning Enforcement Officer may issue a Certificate of Occupancy (Pre-Existing) acknowledging that a building was pre-existing to the adoption of this Law, and its present use has continued without change and, therefore, may be occupied and used for the same purpose.

SECTION 205 APPLICATION DETAILS

Each application for a Zoning Permit, or Special Use Permit shall be made in triplicate and with accompanying site plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. As a minimum the application shall include the following information and plans for both "before" and "after" conditions:

- 205.1-1 The location, use, design and dimensions and height of each use and building.
- 205.1-2 The location and arrangement of vehicular access ways, and the location size and capacity of all areas used for off-street parking, loading and unloading.
- 205.1-3 The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
- 205.1-4 The design and treatment of open areas, buffer area and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
- 205.1-5 Provision for water supply, sewage disposal, storm drainage and solid waste collection and disposal including the location of dumpsters, if any.
- 205.1-6 Property boundaries including the precise location of the centerline of the road, dimensions, scale, North arrow, date, general location map and easements and deed restrictions, if applicable.
- 205.1-7 Physical features, including geodetic markings, existing swales, elevations, streams, wetlands and swamp areas, location of trees and a description of existing vegetation.
- 205.1-8 Location and type of lighting to be provided.
- 205.1-9 Proposed route or routes of construction related vehicles to and from the building site.
- 205.1-10 Such other data and plans as the Zoning Enforcement Officer, the Board of Appeals and the Planning Board may require to properly take action on the application.

SECTION 206 APPLICATION FEES

- 206.1 Each application for a permit provided for by this Article shall be accompanied by a fee, payable in cash or other form of security, approved by the Town Attorney, in accordance with the fee schedule as established by the Town of North Dansville Board of Trustees, by their own motion, and posted in the Town Clerk's office.

**ARTICLE III
BOARD OF APPEALS**

SECTION 301 CREATION, APPOINTMENT AND ORGANIZATION

301.1 A board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board, who shall also designate a Chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board, first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after his or her appointment. Their successors shall be appointed for the five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expired term, it shall be filled by the Town Board by appointment for the unexpired term.

SECTION 302 POWERS AND DUTIES

302.1 The Board of Appeals shall have all the powers and duties prescribed by Chapter 64, Section 179b of the Town Law of the State of New York and by this Law which are more particularly specified as follows:

302.1-1 To hear and to decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this chapter.

302.1-2 To authorize upon appeal in specific cases such variance from the specific terms of this chapter as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, provided that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done as hereinafter provided.

302.1-3 To hear and decide applications for interpretation of the Zoning District Map where there is any uncertainty as to the location of a district boundary.

302.1-4 To hear and decide upon applications for such permits as specified in this Law.

302.1-5 No such variance shall be authorized by the Board unless it finds that:

A. The strict application of this chapter shall produce undo hardship.

B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not self-imposed.

C. The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by granting of the variance, the Board of Appeals shall prescribe any condition that it deems to be necessary or desirable.

302.1-6 The variance granted by the Zoning Board of Appeals shall expire after one (1) year if substantial construction or change has not taken place in accordance with the plans for which variance was granted.

SECTION 303 PROCEDURE

303.1 The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Law. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and available from the Zoning Enforcement Officer. Every appeal or application shall refer to the specific provision of the Law involved and shall exactly set forth the interpretation that is claimed, the use for which the special use permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted as the case may be. Within seven (7) days of receipt of an application for appeal, the secretary for the Board of Appeals shall transmit a duplicate copy of this application to the Planning Board and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal within thirty (30) days. Failure to submit such report shall constitute approval of said application or appeal by the Planning Board. Within fourteen (14) days of receipt of recommendations of the Planning Board or in the event that the Planning Board has issued no recommendations, within forty-four (44) days of receipt of the original application, the Board of Appeals shall conduct a public hearing on the application for appeal. Within seven (7) days of said hearing, the Board of Appeals shall notify applicant of its approval or disapproval of said appeal.

SECTION 304 BOARD OF APPEALS OFFICE

304.1 The office of the Town Clerk shall be the office of the Board of Appeals and every rule, regulation, amendment, or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by Section 267 of the Town Law of the State of New York.

SECTION 305 NOTICES OF BOARD HEARINGS

305.1 The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing to the applicant. Such notice shall be served upon the applicant. Public notice shall be the publication of a notice in the official newspaper of the Town and shall briefly describe the nature of the appeal and the time and place of the hearing. The applicant shall, at least seven (7) days prior to the date of the hearing, give notice in writing by registered mail or by service in person, with adequate proof of contact thereof to all property owners within two hundred (200) feet of the property to be affected by said appeal or to all property owners of contiguous land or properties adjoining said property to be affected, and other interested property owners as may be designated by the Board of Appeals. The applicant must furnish proof of services in writing and properly notarized.

**ARTICLE IV
PENALTIES**

SECTION 401 PENALTIES

401.1 Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or where shall be placed on or there exists anything in violation of any of the provisions of this chapter and any person, firm, company, organization, department, public entity or corporation who shall assist in the commission of any violation of this chapter or any conditions imposed by the Planning Board or the Zoning Board of Appeals or who shall build contrary to the plans or specifications submitted to the Zoning Enforcement Officer and by him certified as complying with this chapter and any person, firm, company, organization, department, public entity or corporation who shall omit, neglect or refuse to do any act required by this chapter shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars (\$250.00) or to imprisonment for a period of not more than fifteen (15) days, or both, and in addition may be ordered to pay all costs and expenses involved in the case. Every such person, firm, company, organization, department, public entity or corporation shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

401.2 In case of any violation of any of the provisions of this chapter, or conditions imposed by the Planning Board or Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

**ARTICLE V
DISTRICTS**

SECTION 501 ESTABLISHMENT

501.1 The Town of North Dansville shall be divided into the following types of districts which shall be differentiated according to use and area, and for the purpose of which they shall be hereafter used and developed:

- C** - Conservation District
- A** - Agricultural District
- LR** - Low Density Residential District
- MR** - Medium Density Residential
- HR** - High Density Residential District
- RR** - Rural Residential District
- B** - Business District
- I-1** - Light Industrial District
- I-AE** - Adult Entertainment Overlay District
- I-2** - Heavy Industrial District

SECTION 502 OFFICIAL ZONING MAP

502.1 The above districts shall be located, bounded, and described as shown by the Amended Zoning Map of the Town of North Dansville which has been designated the Official Map of the Town, now on file in the Office of the Town Clerk, and together with the boundaries and designations herein is made part of these Zoning Ordinances.

SECTION 503 INTERPRETATION OF DISTRICT BOUNDARIES

503.1 Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

503.1-1 Distances shown on the zoning map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines in all cases, where distances are given, are parallel to the street line.

503.1-2 Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

503.1-3 Where district boundaries are so indicated that they approximately follow the lot line, such lot lines shall be construed to be said boundaries.

503.1-4 Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefore as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

503.1-5 Where the boundary of a district follows a railroad line or is parallel thereto, such boundary shall be deemed to be located, or shall be measured from a point midway between the main tracks of said railroad line.

503.1-6 Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of North Dansville, unless otherwise designated. If no distance is given, the dimension shall be determined by the use of the scale shown on said zoning map.

SECTION 504 REGULATIONS

504.1 Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered, unless in conformity with the uses listed as permitted uses in each zone by this Local Law and in conformity with the requirements set forth in the Schedule of Section 607.2; nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations designated in the Schedule and this Local Law for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this Local Law and the Certificate of Occupancy shall become void.

**ARTICLE VI
ZONING DISTRICT REGULATIONS**

SECTION 600 CONSERVATION DISTRICT, C

600.1 INTENT

The Conservation District encompasses certain topographically defined areas of the Town which are inhibited by slopes of fifteen (15) percent grade, or greater, which have been deemed unsuitable for building or other related urban uses. This district is intended to be preserved in its natural state to protect the health, safety and general welfare of the residents of the Town of North Dansville by maintaining or enhancing the natural ground cover which inhibits surface storm water runoff.

600.2 PERMITTED PRINCIPAL USES

Agricultural, recreational or conservation related uses which permanently maintain a ground cover of the area sufficient to provide protection from erosion equal to or greater than that now effected by the natural cover. No development or change can take place upon or in the Conservation District without prior approval of the Town Board after review of plans and recommendation of the Town of North Dansville Planning Board.

600.3 PERMITTED ACCESSORY USES

None, except in conjunction with an approved permitted principal use.

600.4 USES PERMITTED BY SPECIAL USE PERMIT

Public utility uses, in accordance with good conservation practices.

SECTION 601 AGRICULTURAL DISTRICT, A

601.1 Permitted Principle Uses

601.1-1 Farms and related farming activities provide that no storage of manure or odor or dust producing substances shall be permitted within one hundred (100) feet of an adjoining lot line. Riding academies, stables, and/or boarding horses, kennels for breeding and boarding of domestic animals are included.

601.1-2 Single family dwellings.

601.1-3 Churches and other similar places of worship, parish houses, convents and other similar facilities of recognized religious groups.

601.1-4 Public buildings, libraries, museums, public and non-profit private schools, accredited by the State Education Department.

601.1-5 Municipal parks, playgrounds and recreation areas deemed necessary and appropriate by the Town Board.

601.1-6 Professional offices and home occupation uses provided they are carried on in conjunction with a residential use of the property.

- 601.1-7 Landscape nurseries.
- 601.1-8 Mobile home parks, subject to the requirements of Section 601.6.
- 601.1-9 Cluster residential developments subject to the requirements of Section 601.4.
- 601.1-10 Planned unit development subject to the requirements of Section 601.5.
- 601.2 Permitted Accessory Uses
- 601.2-1 Private garages.
- 601.2-2 Customary residential storage structures.
- 601.2-3 Animal shelters for domestic pets of the household.
- 601.2-4 Other customary residential structures such as private swimming pools, fireplaces, trellises, lamp posts, satellite receiving antenna, solar panels and windmills.
- 601.2-5 Customary farm buildings and/or nursery buildings for the storage of products or equipment located on the same parcel as the principal use.
- 601.2-6 On a farm, one mobile home which is utilized as living quarters by a full-time employee of the farm owner or operator will be considered as a permitted accessory use, provided that required setbacks are measured from the trailer when it is in a yard of a principal residential building. It is further provided that a minimum distance of one hundred (100) feet be provided between the trailer and a principal residential building, or any accessory buildings, but that at no time shall a mobile home be located further than five hundred (500) feet from the principal building.
- 601.2-7 Farm camps on farms as defined in this Local Law for temporary housing for temporary occupancy by migrant workers and their families in accordance with the provisions of all applicable laws, regulations, ordinances and codes now in effect or as may hereafter be established.
- 601.2-8 Veterinarians' offices and uses incidental thereto, riding academies, stables for boarding or breeding of horses, kennels for boarding or breeding of cats and dogs.
- 601.2-9 Signs in accordance with Article XI.
- 601.2-10 Parking in accordance with Article X.
- 601.3 Uses permitted with a Special Use Permit subject to the requirements of Article XII.
- 601.3-1 Hospitals, philanthropic and charitable uses, nursing and convalescent homes, retirement and custodial homes.
- 601.3-2 Motor vehicle service stations.
- 601.3-3 Public Utility Uses
- 601.3-4 Campgrounds
- 601.3-5 Excavation operations
- 601.4 Regulations applying to Cluster Residential Development (PUD)

601.4-1 This section is intended and designated to provide a means for the development of large tracts of land on a unit basis, by allowing greater flexibility in overall residential site design and building location than the conventional single-lot method provided in other sections of this Local Law. It is the intent of this section that the basic principles of an integrated system of residential and open space development be encouraged through special zoning regulations and Town Planning Board site review.

601.4-2 Permitted uses: single family residences.

601.4-3 Minimum site size: thirty (30) acres.

601.4-4 Development procedures: as provided for in the Land Subdivision Regulations of the Town of North Dansville.

601.5 Regulations applying to Planned Unit Development (PUD)

The intent of the Planned Unit Development provision is to provide a greater degree of flexibility for the development of large tracts of land proposed for development under a single or corporate ownership, which proposed to provide residential, commercial, and industrial activities on the same parcel of land in a planned, controlled environment. A PUD proposal may contain both individual building sites and common property which are proposed for development as an integrated mixed land use unit. Limited retail and service commercial uses, closely related to the residential sections of a proposed Planned Unit Development are encouraged to provide a limited, daily convenience level of nearby shopping needs, in a manner blending all land uses into an aesthetically complementary whole, within the framework of the Comprehensive Plan.

601.5-1 To implement the intent of the Planned Unit Development provision, the following objectives must be met:

A. The proposed project area shall encompass a contiguous minimum land area of fifty (50) acres of the Town of North Dansville.

B. In no case shall there be less than twenty (20) percent of the total land area in open space. All such land area proposed for common open space shall be offered for dedication to the Town Board of the Town of North Dansville.

C. Commercial activities shall be planned and constructed in a manner architecturally similar and complimentary to the residential units within the proposed development.

D. The proposed plan shall contain no less than two hundred (200) dwelling units.

E. The requirements of this Local Law, insofar as density, minimum lot area, minimum lot width, minimum side and rear yard areas, and maximum lot coverage are as specified in the Schedule of this Local Law. All other requirements of the Local Law shall be adhered to.

601.5-2 Application Procedure

In order for an expeditious method of processing a proposed Planned Unit Development application, the application in the form of a letter of intent and an accurate preliminary plan drawn to scale shall be provided in six (6) to the Town Board. The Town Board, upon receipt of the proposal, shall send five (5) copies to the Town of North Dansville Planning

Board for site review. All planning, zoning and subdivision matters relating to the platting, use and development of the proposed plan shall be determined and established by the Town Board after final site review and approval by the Town Planning Board.

601.5-3

The application shall explain and show the following information:

- A.** Location and extent of all proposed land use including open space.
- B.** All interior streets, roads, easements and their planned public or private ownership, as well as all points of access and egress from existing public rights-of-way.
- C.** Specific delineation of all uses indicating the number of residential units and the density of each residential housing type, as well as the overall project density.
- D.** The overall water and sanitary sewer system with proposed points of attachment to existing systems; the proposed storm water drainage system and its relation to existing systems; evidence of preliminary discussion and approval of the New York State Department of Health of the proposed sewer and water system or their recommended modifications.
- E.** Description of the manner in which any areas that are not to become publicly owned, are to be maintained, including open space, streets, lighting and others according to the proposals.
- F.** If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and number of units or activities completed per phase.
- G.** Evidence as required by the reviewing Boards of the applicant's ability to complete the proposed Planned Unit Development.
- H.** A description of any covenants, grants of easement or other restriction proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
- I.** A written statement by the landowner setting forth the reasons why, in his opinion, the proposal would be in the public interest and would be consistent with the Town goals and objectives.

601.5-4

Within sixty (60) days after receipt of the recommendations of the Town Planning Board, the Town Board shall hold one or more public hearings, as needed, public notice of which shall have been given in accordance to Section 265 of the Town Law to determine the advisability of the proposal. The Town Board shall, within forty-five (45) days following the conclusion of the hearings, either (a) grant tentative approval of the PUD as submitted, (b) grant tentative approval of the PUD subject to specified written conditions imposed by the Town Board, or (c) deny tentative approval of the Proposal.

In the event that tentative approval is granted, either of the proposals as submitted or with conditions, the Town Board shall, as part of its resolution, specify the drawings, specifications and performance bond that shall be required to accompany an application for final approval. The landowner shall, within thirty (30) days, notify the Town Board of his acceptance of or refusal to accept all specified conditions. If the landowner refuses to accept the conditions outlined, the Town Board shall be deemed to have denied tentative approval. If the landowner accepts, the proposal shall stand as granted.

Tentative approval shall not qualify a proposal for recording nor authorize development or the issuance of building permits.

601.5-5 Factors for Consideration

The Planning Board's review of a preliminary Development Plan shall include, but is not limited to, the following considerations:

- A.** Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic control.
- B.** Adequacy and arrangement of pedestrian traffic access and circulation including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.
- C.** Location arrangement, appearance and sufficiency of off-street parking and loading.
- D.** Location, arrangement, size and design of buildings, lighting and signs.
- E.** Adequacy, type and arrangement of trees, shrubs and other landscaping constituting visual and/or noise-detering buffer between adjacent uses and adjoining lands.
- F.** In the case of multiple family dwellings, the adequacy of usable open space for playgrounds and informal recreation.
- G.** Adequacy of storm water and sanitary waste disposal facilities.
- H.** Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
- I.** Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- J.** The relationship of the proposed land uses to adjacent land uses and the use of buffer areas and open space to provide a harmonious blending of existing and proposed uses.
- K.** Conformance with other specific recommendations of the Town Board which may have been stated in the Board's resolution under Section 601.5-4.

601.5-6 Application for Final Approval

A. An application for final approval may be for all the land included in a plan, or the extent set forth in the tentative approval for a section thereof. Said application shall be made to the official of the Town Board and of the Planning Board designated by the Local Law and within the time or times specified by the resolution granting tentative approval. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by written resolution of the Town Board at the time of tentative approval. A public hearing on an application for final approval of the plan, or part thereof, shall be required, unless the plan, or the part thereof, submitted for final approval, is in the judgment of the Town

Board, in substantial compliance with the plan theretofore given tentative approval.

B. In the event a public hearing is not required for final approval, and the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, and as required by the resolution of tentative approval, the Town Board shall, within thirty days of such filing and after receipt of a report thereon by the Town Municipal Planning Board, grant such plan final approval; provided, however, that, in the event the plan as submitted, contains variations from the plan given tentative approval but remains in substantial compliance with the plan as submitted for tentative approval, the Town Board may, after a meeting with the landowner, refuse to grant final approval and shall, within thirty days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of said refusal, the landowner may: (1) file his application for final approval without the variations objected to by the Town Board on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or within thirty days from the date he received notice of said refusal, whichever date shall occur last; or (2) treat the refusal as a denial of final approval and so notify the Town Board.

C. In the event the plan as submitted for final approval is not in substantial compliance with the plan as given tentative approval, the Town Board shall, within thirty days of the date the application for final approval is filed, so notify the landowner in writing, setting forth the particular ways in which the plan is not in substantial compliance. The landowner may: (1) treat said notification as a denial of final approval; or (2) re-file his plan as tentatively approved; or (3) file a written request with the Town Board that it hold a public hearing on application for final approval. If the landowner shall elect either alternative (2) or (3) above, he may re-file his plan or file a request for a public hearing, as the case may be, on or before the last day of the time within which he was authorized by his resolution granting tentative approval to file for final approval, or thirty days from the date he receives notice of said refusal whichever date shall last occur. Any such public hearing is made by the landowner, and notice thereof shall be given and the hearings shall be conducted in the manner prescribed in Section 264 of the Town Law. Within forty-five days after the conclusions of the hearing, the Town Board shall, by resolution, either grant final approval to the plan or deny final approval to the plan and shall, in cases arising under the paragraph (c), be in the form and contain the findings required for a resolution on an application for tentative approval set forth in section 601.5-4.

D. A plan, or any part thereof, which has been given final approval by the Town Board shall be so certified without delay by the Town Clerk and shall be filed on record forthwith in the office of the County Clerk before any development shall take place in accordance therewith. Upon filing of record of the plan, the zoning and subdivision regulations otherwise applicable to the land included in the plan shall cease to apply thereto. Pending completion within five years of said planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said plan, or part thereof, as finally approved, shall be made nor shall it be impaired by act of the Town, except with the consent of the landowner.

E. In the event that a plan, or section thereof, is given final approval and thereafter the landowner shall abandon said plan or the section thereof that has been finally approved, and shall so notify the Town Board in writing or, in the event the landowner shall fail to commence and carry out the planned unit development within a reasonable period of time after final approval has been granted, no further development shall take place on the property included in the plan until after said property is re-subdivided

and is reclassified in accordance with the provisions of law.

601.5-7 Review of ordinances and plans by county and regional planning agencies. No section of the Local Law enacted under provisions of this article shall become effective or plan submitted under this section be granted tentative or final approval until such tentative or final plan has been referred for review and comment to the County planning agency as prescribed herein. Upon enactment of such Local Law or receipt of application for tentative or final approval of such plan, a copy shall be referred to the County planning agency. Such planning agency or directory shall within thirty days of receipt of the copy of such Local Law or tentative or final plan, report its recommendations thereon to the referring Town Board body. If such planning agency or director recommends modifications of a Local Law or plan so referred, the Town Board shall not act contrary to such recommendation except after adoption of a resolution fully setting forth reasons for such contrary action. In its review, the Planning Board may consult with the Town Engineer, architectural or planning consultants, and other Town and County officials, as well as with representatives of Federal and State agencies including the Soil Conservation Service and the New York Department of Conservation. The Planning Board may require that the design of all structures be made by, or under the direction of, a registered architect whose seal shall be affixed to the plans. The Planning Board may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

601.5-8 Changes in Final Plan after Approval No changes may be made in the approved final plan during the construction of the planned development except upon application to the appropriate agency under the procedures provided below:

A. Minor changes in the location, siting and height, length and width of buildings and structures may be authorized by the Planning Board if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this section may increase the cube of any building or structure by more than ten percent.

B. All other changes in use, any rearrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be approved by the Town Board, under the procedures authorized by this Local Law for the amendment of the zoning map. No amendments may be made in the approved final plan unless they are shown to be required by changes in the development policy of the community.

601.6 Regulations Applicable to Mobile Home Parks

601.6-1 Mobile home parks may be permitted in Agricultural (A) districts provided that the following standards and procedures are adhered to:

601.6-2 Tract Requirements

A. The minimum tract size shall be fifty (50) acres and such tract shall front upon a collector street as designated in the Comprehensive Plan of the Town of North Dansville and such tract shall be improved to standards as set forth in the Town of North Dansville Subdivision Regulations.

B. A front yard setback of sixty (60) feet shall be observed from the centerline of any public road bordering the site to any mobile home in the park.

C. A setback of forty (40) feet shall be observed from any property line not also a street line or street centerline to any mobile home in the park.

D. Within each setback required by B and C above, there shall be a landscape screen planted and maintained which shall consist at a minimum of the planting of two staggered rows of evergreen trees no further apart than six (6) feet on center and at least four (4) feet in height. The base of any such planting shall be not closer than ten (10) feet or more than forty (40) feet from the property line and shall be so arranged around entrances and exits to preclude interference with sight distance or vehicular safety. Said planting shall be posted with the Town Board in an amount equal to twenty-five (25) percent of the estimated cost of trees and planting. Said guarantee shall be released only after the passage of the second growing season (May through September) after planting at which time a pro rata amount shall be deducted up to the full amount of the guarantee for trees not living. Natural screening, I. E. existing hedge row may be used in lieu of the above, at the discretion of the Planning Board. Landscape screening may be waived where park adjoins "A" District property until such time as reasonable need is demonstrated.

E. The tract shall be located and laid out so that no mobile home shall be closer than three hundred (300) feet to any existing single family detached or two family dwelling.

F. All interior roads shall be improved to the construction standards for minor streets set forth in the Subdivision Regulations for the Town of North Dansville.

G. Entrances and exits shall be so located to provide a minimum sight distance on the adjacent public road in both directions from the interior road at the point of intersection of not less than three hundred (300) feet.

H. Each mobile home park shall provide a water reservoir or an approved water supply system for fire protection use, which shall be certified as adequate by the Dansville Fire Department.

I. Each mobile home park shall set aside twenty (20) percent of the total acreage of the site as open space and recreation area. A portion of such area shall be set aside for and equipped as a playground. A building shall be constructed within such area for the common use of residents for recreational purposes. Such building shall not contain less than two hundred (200) square feet of gross floor area or less than two (2) square feet for each mobile home lot created within the park.

J. Sidewalks shall be constructed along at least one side of all interior streets having a minimum width of three (3) feet in accordance with specifications of the Town Engineer. Sidewalk may be omitted where all interior roads shall be paved 3' 0" wider than standard as required in the Subdivision Regulations for the Town of North Dansville. All such combination use roads shall be posted to maximum speed of 15 M.P.H.

K. Appropriate street lighting shall be installed on interior streets with the minimum number of lights being one at each intersection of interior streets with each other or with abutting public roads, and one at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.

601.6-3

Lot Requirements

A. Each mobile home lot or site shall have an area of at least 5000 square feet, (lot width may vary and will be determined from dwelling unit or carport to property line minimum side setback from structure to property line to be ten (10) feet either side. Minimum dwelling width, including carport, to be considered thirty (30) feet, minimum

depth shall be one hundred (100) feet. All dwelling units shall be placed a minimum of forty-five (45) from center line of road to front of structure.

B. No mobile home shall be closer than twenty (20) feet to another mobile home or other structure within the park.

C. Not more than one (1) mobile home may be placed on any lot or site and there shall be no detached accessory structures on a lot or site.

D. Each lot or site shall be provided with approved connections for water and sewer in accordance with the regulations of the Livingston County and New York State Departments of Health, and electricity and telephone.

E. A surfaced parking pad shall be provided on each lot or site for one mobile home and one automobile, with hard surfaced driveway minimum of ten (10) feet wide extending from edge of road pavement to carport pad.

F. At least one (1) shade tree of not less than two (2) inches in diameter one (1) foot above ground level shall be planted on each lot or site which shall be guaranteed in the manner and according to the conditions set forth in Section 701.4.

G. Each lot or site shall front upon an approved interior street.

H. Temporary storage of trash and refuse should be in a manner approved by the Livingston County Health Department and in such a manner as to be shielded from public view.

I. No front or side yard shall be used for storage.

601.6-4 At the time of application for a zoning permit for a mobile home park, the applicant shall submit to the Zoning Officer the required plans and supporting documents sufficient to show that each of the above requirements are met, in accordance with Section 204.1

SECTION 602 LOW DENSITY RESIDENTIAL, LR

602.1 Permitted Principal Uses

602.1-1 Includes-all uses permitted in Section 601.1, except 601.1-7 and 601.1-8.

602.1-2 Two family dwellings

602.2 Permitted Accessory Uses

602.2-1 Includes all uses permitted in Section 601.2

602.3 Uses permitted with a Special Use Permit, subject to the requirements of Article XII.

602.3-1 Includes all uses permitted in Section 601.3, except 601.3-2

SECTION 603 MEDIUM DENSITY RESIDENTIAL, MR

603.1 Permitted Uses

603.1-1 Includes all uses permitted in Section 601.1, except 601.1-1, 601.1-7, 601.1-9, 601.1-10.

- 603.1-2 Two family dwellings
- 603.1-3 Churches and other similar places of worship, parish houses, convents, and other similar facilities of recognized religious groups.
- 603.1-4 Public buildings, libraries, museums, public and non-profit private schools accredited by the State Education Department.
- 603.1-5 Municipal parks, playgrounds and recreation areas deemed necessary and appropriate by the Town Board.
- 603.1-6 Planned unit development subject to the requirements of Section 601.5.
- 603.2 Permitted Accessory Uses
- 603.2-1 Includes all accessory uses permitted in Section 601.2, except 601.2-6 and 601.2-7.
- 603.3 Uses permitted with a Special Use Permit subject to the requirements of Article XII.
- 603.3-1 Public utility uses
- 603.3-2 Hospitals, philanthropic and charitable uses.

SECTION 604 HIGH DENSITY RESIDENTIAL, HR

- 604.1 Permitted Uses
- 604.1-1 Includes all uses permitted in Section 601.1, except 601.1-1, 601.1-7, 601.1-9, 601.1-10.
- 604.1-2 Two-family dwellings.
- 604.1-3 Boarding and rooming houses, transient homes.
- 604.1-4 Apartments subject to the requirements of Section 604.4
- 604.2 Permitted Accessory Uses
- 604.2-1 Includes all uses permitted in Section 601.2 except 601.2-5, 601.2-6, 601.2-7, 601.2-8.
- 604.3 Uses permitted with a Special Use Permit Subject to the Requirements of Article XII, and Section 601.3, except 601.3-4, 601.3-5 and all of Section 601.4, Section 601.5, and Section 601.6.
- 604.3-1 Public utility uses.
- 604.4 Additional Requirements Applicable to Apartment Projects
- 604.4-1 Apartment structures shall not exceed a density of fifteen (15) dwelling units per net acre of lot area minus street area.
- 604.4-2 Driveways for ingress and egress for apartment developments shall connect with other than minor streets; wherever possible; shall not be located within two hundred (200) feet of an existing street intersection and shall have a pavement width of at least twenty-two (22) feet except where they are within a parking area in which case they shall not be less than twenty-five (25) feet in width.

- 604.4-3 The minimum yard requirements of the schedule apply only to the entire tract and no buildings shall be located within such yard areas. The minimum distance between buildings in an apartment development shall be twenty-five (25) feet except that no wall containing an entrance to an apartment shall be closer to another apartment building than fifty (50) feet. No apartment building shall be closer to a pre-existing single-family or two-family dwelling than fifty (50) feet.
- 604.4-4 Parking areas may be located in any yard other than the required front yard but not closer than ten (10) feet to any property line and shall comply with all other requirements of the Regulations Applicable to All Zones in this Law.
- 604.4-5 Every apartment building shall have a minimum setback of twenty (20) feet from all interior roads, driveways and parking areas.
- 604.4-6 Every apartment development shall be provided with garbage and refuse collection and storage areas screened from view and away from the fronts of apartment buildings.
- 604.4-7 In addition to any storage area within individual apartment dwelling units, two hundred (200) cubic feet of storage area shall be provided for each dwelling unit in a convenient centrally located area in the basement or ground floor or elsewhere, where personal belongings and effects may be stored under lock and separated from the belongings and effects of other occupants.
- 604.4-8 A wall of an apartment structure or parallel walls of adjacent apartment structures shall not continue in the same plane for a length of more than seventy-five (75) feet without an offset of at least four (4) feet.
- 604.4-9 Each apartment development shall provide a playground area or areas at a standard of five hundred (500) square feet for each ten (10) dwelling units. Outdoor play equipment shall be installed in each playground in sufficient amount and variety to service the occupants of the development.
- 604.4-10 The entire area of an apartment development not improved for driveways, parking area or covered by building or walkways shall be attractively landscaped and seeded and properly maintained at all times.

SECTION 605 BUSINESS DISTRICT, B

605.1 Permitted Primary Uses

- 605.1-1 Retail business establishments which are clearly of a community service characteristic, such as but not limited to the following:
- A. Stores selling groceries, meats, baked goods and other such food items.
 - B. Drugstores
 - C. Stationery, tobacco and newspaper stores, luncheonettes and confectionery stores.
 - D. Department and general merchandise stores.
 - E. Hardware, appliance and furniture stores; radio and television stores.

F. Clothing, accessory and jewelry stores.

G. Restaurants

605.1-2 Personal services establishments which are clearly of a community service character, such as but not limited to the following:

A. Barber and beauty shops

B. Shoe repair shops

C. Tailor shops and dry cleaning stores

D. Business and professional offices, banks, and financial institutions.

E. Funeral homes

605.1-3 Hotels and motels

605.1-4 Other business uses which, in the opinion of the Board of Appeals, are similar in nature and scale to those permitted above.

605.2 Permitted Accessory Uses

605.2-1 Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.

605.2-2 Dwelling units, accessory to the principal business use, provided said units are located in the principal building.

605.2-3 Signs in accordance with Article XI

605.2-4 Parking in accordance with Article X

605.3 Uses permitted with a Special Use Permit subject to the requirements of Article XII.

605.3-1 Public utility uses

605.3-2 Motor vehicle service stations

SECTION 606 LIGHT INDUSTRIAL USES, I

606.1 Permitted Principal Uses

606.1-1 Any use of a light industrial nature is permitted which involves only the processing, assembly, packaging or storage of previously or refined materials, provided that at no time will such use result in or cause:

A. Dissemination of dust, smoke, smog, observable gas, fumes, or odors, or other atmospheric pollution, objectionable noise, glare or vibration or electrical interference.

B. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the use.

- 606.1-2 The following uses are indicative of those which are intended to be permitted.
- A.** Manufacture of machinery such as, but not limited to small machine parts, office and household machinery, tool and die products, etc.
 - B.** Fabrication of metal products such as but not limited to metal foil, sheet metal products and household furnishings, etc.
 - C.** Fabrication of paper products such as but not limited to packaging material, office and household supplies, stationery, toys, etc.
 - D.** Fabrication of wood products such as but not limited to boats, boxes, home cabinets and woodworking, furniture and toys, etc.
 - E.** Food and associated industries such as but not limited to bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, etc.
 - F.** The manufacturing and processing of pharmaceutical and cosmetic products.
 - G.** The manufacturing and processing of plastics, chemical products, and textiles.
 - H.** Plant nurseries, including retail and wholesale distribution.
 - I.** Office buildings for executive, engineering and administrative purposes
 - J.** Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabricating incidental thereto.
 - K.** The warehousing or storage of goods and products such as building materials, farm supplies, and the like, which may be sold from the premises to the general public. The bulk storage of fuel for resale is specifically excluded from the intent of the above.
 - L.** Airports and related general aviation industrial operations including maintenance shops.

606.2 Permitted Accessory Uses

- 606.2-1 Private garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.
- 606.2-2 Signs in accordance with XI.
- 606.2-3 Parking in accordance with Article X.
- 606.3 Uses Permitted with a Special Use Permit Subject to the Requirements of Article XII.
- 606.3-1 Includes all uses permitted in Section 604.3.
- 606.4 Other Provisions and Requirements
- 606.4-1 Each use established in this zone shall set aside a minimum of fifteen (15) percent of the tract for seeding and landscaping and use this area for no other purpose.

606.4-2 All industrial processes shall take place within an enclosed building. Incidental storage of materials out of doors shall be permitted. Industrial uses shall be located so as to be a minimum of twenty-five (25) feet from any property line abutting a non-industrial district. This twenty-five (25) foot buffer strip shall be perpetually maintained with landscape plant material to provide a visual screen between the industrial use and the adjoining non-industrial use. Said buffer strip to be exclusive of required yard setbacks as prescribed in the Schedule 608.2

606.4-3 All principal or accessory buildings housing a use permitted only in an, I (Industrial) district shall be located at least one hundred (100) feet from any other district, with the exception of an I-2 district.

SECTION 607 HEAVY INDUSTRIAL DISTRICT, I-2

607.1 The "I-2" district is intended and designated to provide areas of the Town for activities and uses of a heavy industrial character. Since this is the least restrictive of any district, almost any use is permissible with the exception of a small number of uses which by reason of certain undesirable characteristics are subject to Town Board approval in accordance with appropriate safeguards, detailed herein. In addition, no residential uses are to be permitted in the "I-2" district.

607.2 Permitted Principal Uses

607.2-1 A building or premises may be used for any purpose whatsoever provided the following regulations are met:

A. No occupancy permit shall be issued for any use in conflict with any Local Law of the Town of North Dansville or the laws of the State of New York.

B. No occupancy permit shall be issued for any dwellings, school, hospital, clinic or other institution for human care, except where incidental to a permitted principal use.

C. No use shall be permitted except as approved by the Town Board after public hearing, and after report and recommendations by the Planning Board of the Town of North Dansville. In its determination upon the particular uses at requested location, the Town Board shall consider all of the following provisions:

1. That the proposed locations design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;

2. That such use shall not impair an adequate supply of light and air to surrounding property;

3. That such use shall not unduly increase congestion in the streets, or public danger of fire and safety;

4. That such use shall not diminish or impair established property values in adjoining or surrounding property, and

5. That such use shall be in accord with the intent, purpose and spirit of this Local Law and the Comprehensive Plan of the Town.

- 607.3 Permitted Accessory Uses
- 607.3-1 Includes all uses permitted in Section 605.2
- 607.4 Additional Regulations Applicable to the Heavy Industrial District
- 607.4-1 The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.
- 607.4-2 All principal or accessory structures housing a use permitted only in the I-2 district shall be located at least two hundred (200) feet from any R district and not less than one hundred (100) feet from any other district, except an I-1 district. In addition, a fifty (50) foot buffer strip shall be perpetually maintained with plant material to provide a visual service between the industrial use and any adjoining non-industrial use, said buffer strip to be exclusive of required yard setbacks as prescribed in the Schedule of Section 608.2.

SECTION 608 ZONING SCHEDULE

- 608.1 The Schedule of area, lot and bulk requirements enclosed herein is made part of this Local Law. The regulations included in said Schedule are hereby established as minimum regulations of this Local Law; municipal facilities deemed necessary and appropriate by the Town Board are hereby exempted from such bulk and area requirements.
- 608.2 ***** (See schedule) *****

SECTION 609 ADULT ENTERTAINMENT USES – AE

- 609.1 Findings and legislative intent.
 - (1) It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics under certain circumstances, which produce a deleterious effect upon certain adjacent areas. Special regulation of these uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The Town of North Dansville finds it in the public interest to enact these regulations. The purpose of these regulations is to prevent or lessen the secondary effects of adult entertainment uses, and not to inhibit freedom of speech.
 - (2) The unrestrained proliferation and inappropriate location of such businesses is inconsistent with existing development and future plans for the Town in that they often result in influences on the community, which increase crime rate and undermine the economic and social welfare of the community. The deleterious effects of these businesses change the economic and social character of the existing community and adversely affect existing businesses and community and family life.
- 609.2 As defined in Article XIII of this chapter, adult entertainment uses shall be permitted only in Industrial Zoning Districts /Adult Entertainment (I-AE) subject to the following restrictions:
 - (1) Adult entertainment uses are prohibited within:
 - a. Five hundred feet of any zoning district that is zoned to allow residential use
 - b. Five hundred feet of any single-family, two-family, or multiple-family dwelling,

- c. Five hundred feet of any public or private school.
 - d. Five hundred feet of any church or other religious facility or institution.
 - e. Five hundred feet of any public park public bike path, playground or playing field, cemetery or recreational facility.
- (2) No adult entertainment use shall be allowed within 500 feet of another existing adult entertainment use.
- (3) No more than one (1) adult entertainment use shall be located on any lot
- (4) The distances provided hereinabove shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment use is to be located to the nearest point on the parcel of property or the land use district boundary line from which the adult use is to be separated.

§609.3 Other Restrictions

- (1) No adult entertainment use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not containing an adult entertainment use. This provision shall apply to any display, decoration, sign, show, window or other opening.
- (2) There shall be no outdoor sign, display or advertising of any kind other than one (1) identification sign limited to only the name of the establishment.
- (3) Adult entertainment uses shall obtain site plan approval in accordance with this code.
- (4) Adult entertainment uses shall meet all other regulations of the town, including but not limited to district lot and bulk regulation, parking regulations and signage.
- (5) It shall be unlawful to operate an adult entertainment use between the hours of 12 midnight and 8:00a.m.

SECTION 610 RURAL RESIDENTIAL DISTRICT, RR

610.1 INTENT

The rural Residential District defines areas of the Town which are intended to be developed for the sole principal use of single family residential home structures and accessory uses directly related to such structures. This district is intended to enhance and preserve the rural residential neighborhood character for the residents of the town of North Dansville

610.2 PERMITTED PRINCIPAL USE: Single family dwellings

610.3 Permitted Accessory Uses

610.3-1 Private garages

610.3-2 Customary residential storage structures

610.3-3 Animal shelters for domestic pets of the household.

610.3-4 Other customary residential structures such as private swimming pools, fireplaces, trellises, lamp posts, satellite receiving antenna, solar panels.

**ARTICLE VII
GENERAL PROVISIONS**

SECTION 701 REGULATIONS FOR PRESERVATION OF NATURAL FEATURES.

- 701.1 No structure shall be built within (50) feet of the bed of a stream carrying water on an average of six (6) months of the year, or on land subject to periodic overflow.
- 701.2 No persons, firm or corporation shall strip, excavate, or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto, except as hereinafter specified.
- 701.3 Any area of land, having an area of more than one acre from which top soil has been removed or covered over by fill, such area shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.
- 701.4 Existing natural features such as trees, brooks, drainage channels, and views shall be retained. Whenever such features interfere with the proposed use of such property, retention of the maximum amount of such features consistent with the use of the property shall be required.
- 701.5 No excavation in conjunction with the construction or structural alteration of a building and/or adjacent land areas to serve said construction shall be commenced without a zoning permit issued by the Zoning Enforcement Officer. Applications for a permit shall be accompanied by evidence that the provisions of this chapter are adhered to.

SECTION 702 OTHER REGULATIONS APPLICABLE TO ALL ZONES

- 702.1 No lot shall have erected upon it more than one (1) principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this Local Law shall be considered to provide a yard or open space for any other building.
- 702.2 An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Local Law for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building, and if located in a side yard area shall conform to side yard requirements of this Local Law.
- 702.3 Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Town's requirements.
- 702.4 At the intersection of two (2) or more streets, no hedge, fence or wall other than a single post or tree, which is higher than three (3) feet above curb level, nor any obstruction to vision shall be permitted in the triangular area formed by the intersecting street lines and a line joining each, thirty (30) feet distant from said intersections along said street line.
- 702.5 Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.
- 702.6 All yards, open space, off-street parking and required landscaping, must be contained

- within the zone in which the use is permitted.
- 702.7 For the purpose of regulating the locations of accessory buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
- 702.8 When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this Local Law either with respect to any existing structures or use and any proposed structures or use.
- 702.9 Any fences erected in the Town shall adhere to the following:
- 702.9-1 These restrictions shall not be applied so as to restrict the erection, alteration or reconstruction of fences used in connection with farms except insofar as such farms might affect the public safety.
- 702.9-2 These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
- 702.9-3 Before a fence shall be erected, a building permit must be obtained from the Zoning Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all streets, lot property lines and yards.
- 702.9-4 Fences may be erected, altered or reconstructed to a height not to exceed three (3) feet above ground level when located within twenty-five (25) feet of the right-of-way line regardless of depth or required front yard.
- 702.9-5 Fences may be erected, altered or reconstructed to a height not to exceed eight (8) feet above ground level when located in any required yard and more than twenty-five (25) feet from right-of-way line except as hereinafter provided.
- 702.9-6 The face side of any fence erected in any district shall face the nearest abutting property and all posts or supports shall be on the inside of said fence unless said posts or supports constitute an integral part of said face side.
- 702.9-7 A single strand of wire shall not be erected, placed or maintained so as to be dangerous to life or limb of any person because of its height.
- 702.9-8 All property owners and/or users of a said property shall be responsible for the care, safety and confinement of all domestic pets of the household and livestock where zoning allows in their charge. All operations shall provide adequate fencing and gates to confine domestic pets of the household and livestock where zoning allows in a safe and responsible manner. The public needs to be protected from domestic pets of the household and livestock that may cause bodily harm and/or property damage if the animals venture off the property they are housed on. Therefore, any and all animal control laws that require domestic pets of the household and livestock to be confined and not "run at large" without restraint, confinement or supervision, are reasonable and help to protect public health and safety.
- 702.10 Trailers: No person shall use or park any trailer or house car for living or sleeping quarters within the Town of North Dansville except when parking in a licensed mobile home park.

- 702.10-1 Storage of Flammable Liquid or Gas: No storage of any flammable liquid or gas in quantities exceeding two-hundred-eighty (280) gallons shall be allowed except with the prior approval of the Fire Inspector and in conformance with the recommendations of the National Board of Fire Underwriters.
- 702.11 Lots in Two Districts: Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
- 702.12 The permitted accessory uses in any district shall not include any use first specified in a less restricted district. In the interpretation of this provision, an "I" district shall be considered the least restricted and an "A" district the most restricted.
- 702.13 Dumping of refuse, waste materials and other substances is prohibited for districts in the Town except in specified areas or area designated as a Town dump by the Town Board, or except for the purposes of being filled to established grades for which a permit must be obtained from the Town Board.
- 702.14 Two (2) or more disabled, dismantled, or partly dismantled vehicles allowed to remain unhoued on a premises for a period of more than thirty (30) days shall constitute a junk yard. Also the storage, or sale of waste paper, rags, scrap metal, used lumber, discarded materials or the collection, dismantling, storage, or salvaging of machinery or vehicles not in operating condition, shall constitute a junk yard, and as such, are subject to the regulations of Section 608 of this Local Law.
- 702.16 All structures erected in the vicinity of the airport shall conform to the current Federal Aviation regulations.

SECTION 703 REGULATIONS APPLICABLE TO AGRICULTURAL OR RESIDENTIAL DISTRICTS; A, LR, MR, RR OR HR

- 703.1 In any Agricultural or Residential District the permitted uses shall not include:
 - 703.1-1 Storage of flammable liquids known as Class I or Class II in quantities exceeding two-hundred eighty (280) gallons. Storage exceeding 280 gallons shall be allowed in the "A" District with inspection and permit by Building Inspector.
 - 703.1-2 Any use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibration, unreasonable use of lights or night-time operation.
- 703.2 Every structure in any district used as a dwelling shall have masonry or concrete foundations and footings. Footings shall be not less than 36 inches below the surface of the yard at all building lines, and shall be continuous for the outside perimeter of the building, or of a construction of equivalent capacity, except as follows:
 - 703.2-1 For structures to be used for seasonal occupancy in any district, the foundation may be masonry to concrete piers, not less than twelve (12) inches square, and set on footings not less than six (6) inches thick, and eighteen (18) inches square, and not less than thirty-six (36) inches below the surface of the yard.
- 703.3 No accessory structure exceeding twelve (12) feet of height, except farm and religious and public and quasi-public structures.

- 703.4 No accessory structure shall be located within ten (10) feet of a principal building or other accessory building.
- 703.5 No front yard shall be used for any open storage or other storage of boats, camping trailers, utility trailers, motorized camping vans or other equipment.
- 703.6 Not more than one (1) commercial vehicle shall be parked out-of-doors overnight or on Sunday in conjunction with a residential property in a residential zone. No vehicles for commercial display purposes shall be stored in any district at anytime.
- 703.7 In any Agricultural or Residential District, no accessory building shall be erected in any yard except that accessory buildings may occupy in the aggregate not more than twenty-five (25) percent of a rear yard.
- 703.8 Residential swimming pools located on residential premises, for private use only, and applying to a permanently constructed pool used for bathing or swimming, twenty four (24) inches or more in depth or with a water surface exceeding two-hundred fifty (250) square feet shall not be constructed or maintained unless:
- 703.8-1 Such pool shall be no closer than four (4) feet from side or rear property line and shall have a setback of at least forty (40) feet.
- 703.8-2 There shall be erected and maintained a protective fence, extending from the ground to a height of not less than four (4) feet above the ground level, with posts at intervals of not more than eight (8) feet enclosing the entire premises upon which such pool is constructed or entirely surrounding the area in which such pool is located, except that such fence may include one or more separate gates which shall be capable of being closed and locked and which such gate or gates shall be constructed so as not to provide an opening in excess of four (4) feet in width.
- 703.9 Frontage in these districts may be used for the sale by a resident thereof of farm products grown on the premises. Permanent structures for such purposes must comply with the setback and other requirements of this Local Law. Temporary movable structures may be placed and used for such purposes only after the receipt of a temporary permit therefore and on compliance with such reasonable terms and conditions as may be imposed, provided adequate off-street parking is provided.
- 703.10 No satellite receiving antenna may exceed three (3) meters in diameter, nor be installed to reach a height in excess of twelve (12) feet, nor be located in other than a rear yard, nor be closer than ten (10) feet from any lot line .
- 703.11 No solar panels shall be installed other than within the existing structure of a building, or be located in other than the rear yard, nor be closer than ten (10) feet from any lot line.

SECTION 704 REGULATIONS APPLICABLE TO BUSINESS AND INDUSTRIAL DISTRICTS; B, I-1, I-2

- 704.1 "B" District Manufacture or Repair. The number of persons engaged in the manufacture of articles or the fabrication of repair goods or articles shall not exceed 2 in any establishment in a "B" district. The individual and total horsepower of machinery used for such purposes, in any such establishment shall not exceed 5 H.P. and 10 H.P. respectively. Manufacture shall be limited to that incidental to retail sale on the premises, and repair shall be limited to custom repair service.
- 704.2 Enclosure Required: Certain uses specified in the List of Permitted Uses as being subject to

one or more provisions of this Section are hereby restricted as follows:

- 704.2-1 The principal use shall be conducted only within a completely enclosed building.
- 704.2-2 Such building shall have no opening other than stationary windows, or self-closing fire exit doors required by the law, within fifty 50 feet of the nearest property line of lot in any Agricultural or Residential District.
- 704.3 All garage and filling station pumps, lubricating and other automobile devices shall be located at least twenty (20) feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least thirty-five (35) feet distant from any street or lot line. No public garage for more than five (5) motor vehicles shall have any entrance or exit for such vehicles within fifty (50) feet of an Agricultural or Residential District, any school, any church, or any institution for the residence, training or treatment of children or handicapped persons.
- 704.4 Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this Local Law.

**ARTICLE VIII
PERMITTED MODIFICATIONS**

SECTION 801 HEIGHT MODIFICATIONS

- 801.1 In any district any principal building may be erected to a height in excess of that specified for the district provided such front, side, and rear yard is increased one foot for each one foot of such additional height.
- 801.2 Nothing herein contained shall be construed so as to limit the height of Church spires, belfries, cupolas and domes, not for human occupancy, monuments, observation towers, transmission towers, chimneys, smokestacks, derricks, flag poles, radio towers, masts and aerials, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof level. Such features, however, shall be erected to such height as is necessary to accomplish the purpose they are to serve.

SECTION 802 UNDERSIZED LOTS

Other provisions of this Local Law notwithstanding, nothing shall prohibit the use of a lot of less than the required area and width for a single family dwelling in any district, except a lot in an industrial district, provided that all the other provisions of this Local Law are complied with, when such lot, at the time of the passage of this Local Law, was owned, or under contract of sale by persons other than those owning or leasing any adjoining lots.

SECTION 803 FRONT YARD TRANSITION

- 803.1 Where the frontage on one side of a street between two intersecting streets is zoned partly as A, LR, MR, RR, or HR and partly B, I-1, or I-2, the front yard depth in the B, I-1 or I-2 district in such block frontage shall be equal to the required front yard depth of the A, LR, MR, or HR district for a distance of fifty (50) feet into the B, I-1 or I-2 district.
- 803.2 In such cases in residential zones where the frontage on the same side of the street within five hundred (500) feet is fifty (50) percent or more developed, then the required front yard for a new structure may be modified to the average for such existing development. Otherwise the requirements of the Schedule, Section 608 shall apply.

SECTION 804 SIDE AND REAR YARD TRANSITION

- 804.1 Where a lot in B, I-1, or I-2 district abuts a lot in an A, LR, MR, RR or HR district, there shall be provided along such abutting lines a yard equal in width or depth of that required in said A, LR, MR, RR, or HR district.
- 804.2 In the case of lots which comply with the provisions for modification of size under Section 802.1, the combined total side yard requirements as specified in the Schedule shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in the Schedule for the zone in which located. In any case, the side yard area shall not be reduced to less than fifty (50) percent of the requirement of the Schedule.

SECTION 805 CORNER LOT TRANSITION

805.1 On every corner lot in a Residential District, there shall be provided on the side street a yard equal in depth to the required front yard depth on said side street. On such lot where two "front" yards are provided, the other yards may be considered side yards and no rear yard shall be required, providing an open yard area of at least 4800 square feet in any LR district, 2400 square feet in any MR district, and 2400 square feet in any HR district is maintained.

**ARTICLE IX
NON-CONFORMING USES AND BUILDINGS**

SECTION 901 NON-CONFORMING USES

- 901.1 Except as otherwise provided in this Local Law, the lawful use of land or building existing at the date of the adoption of this Local Law may be continued although such use or building does not conform to the regulations specified by this Local Law for the zone in which such land or building is located, provided however:
- 901.1-1 That no non-conforming lot shall be further reduced in size;
- 901.1-2 That no non-conforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.
- 901.1-3 That no non-conforming use may be expanded.
- 901.2 **Discontinuance.** In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Local Law. Such discontinuance of the active and continuous operation of such non-conforming use, or a part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such non-conforming use, regardless of any reservation of intent not to abandon same or of intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment, and other evidences of such non-conforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to re-establish or continue such non-conforming use shall thereupon terminate.
- 901.3 Notwithstanding any other provisions of this Local Law, any automobile wrecking yard or other junk yard and any billboard, advertising structure or non-conforming sign in existence in any R District at the date of enactment of this Local Law shall at the expiration of three (3) years from such date become a prohibited and unlawful use and shall be discontinued, provided, however, that lawfully existing signs accessory to a nonconforming business or industrial building shall not be subject to this subdivision.
- 901.4 No building damaged by fire or other causes to the extent of more than seventy-five (75) percent of its assessed valuation shall be repaired or rebuilt except in conformity with the regulations of this Local Law. Nothing in this Local Law shall prevent the strengthening or restoring to a safe condition any wall, floor, or roof which has been declared unsafe by the Building Inspector.
- 901.5 A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building which existed prior to the enactment of this Local Law shall not be deemed the extension of such non-conforming use.
- 901.6 Unsafe Structures. Any structure or portion thereof declared unsafe by a proper authority, but not ordered to be demolished, may be restored to a safe condition.
- 901.7 Those uses existing at the date of the adoption of this Local Law which would otherwise be permitted only with a Special Use Permit may be required to meet certain regulations as set forth in Article XII, "Uses Requiring Special Use Permits," for the particular use.

- 901.8 A non-conforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the true value of the building unless said building is changed to conform to the requirements of this Local Law.
- 901.9 Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to a use of the same classification upon approval of the Board of Appeals, or to a use of more restricted classification, and when so changed to a more restricted classification, such use thereafter shall not be changed to a less restricted classification.
- 901.10 Normal maintenance repairs and structural alterations of building or other structure containing a nonconforming use shall be permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use.
- 901.11 Amendments. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, or whenever the text of this Law shall be changed with respect to the uses permitted in a district, the foregoing provisions shall also apply to any nonconforming uses existing therein.
- 901.12 At any time after the effective date of this chapter, on the written request of the user of any structure or premises or at the instance of the Zoning Enforcement Officer, an examination by the Zoning Enforcement Officer of any existing use shall be made. A report of the findings made upon such examination shall thereafter be filed together with a Certificate of Non-Conformance which shall clearly describe the premises and structure, if any, referred to and shall specify the nature and extent of the existing use. Such certification shall be prepared in duplicate, one (1) copy of which shall be maintained by the Zoning Enforcement Officer, and one (1) copy of which shall be furnished to the owner or user.

SECTION 902 NON-CONFORMING BUILDING

- 902.1 Any building which is non-conforming due to insufficient yard distances or lot area shall not be considered a non-conforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this Local Law. The use of any such non-conforming building may be changed to any other permitted use so long as the yard or lot area requirements are not greater.
- 902.2 A house trailer may be located on the site where a building is to be erected, and for which a building permit has been issued, provided that such trailer is located no closer than five (5) feet from any lot line. The trailer shall be removed from the premises not later than the date the building permit expires, or within thirty (30) days after the occupancy of the building, whichever is the prior date.

**ARTICLE X
PARKING AND LOADING SPACE**

SECTION 1001 REQUIREMENTS BY USAGE

- 1001.1 In all districts every industrial, business, institutional, recreational, residential or other use shall provide at the time any building or structure is erected, enlarged, or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of this Local Law. All such space shall be deemed to be required on the lot on which it is situated, and shall not be encroached upon or reduced in any manner.
- 1001.2 Whenever there is a change in use, or an increase in floor area, or other unit of measurement, and such change and such increase creates a need for an increase of more than ten (10) percent in the number of required off-street parking spaces as determined by the requirements of this Section, additional off-street parking spaces shall be provided in accordance with this Section for that addition or change in use.
- 1001.3 None of the off-street parking facilities as required in the Local Law shall be required for any existing building or use, unless said building or use shall be enlarged.
- 1001.4 Access drives or walkways to any Business or Industrial District through any Residential District shall not be permitted as this would constitute an illegal use of residentially zoned land.
- 1001.5 In stadiums, churches, and other places of worship, in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat for purposes of the parking standards.
- 1001.6 The number of off-street parking facilities required shall be set forth in the following:
- | | | |
|----------|---|---|
| 1001.6-1 | Auditorium | 1 for each 5 seats |
| 1001.6-2 | Automobile or Machine Sales and Service | 1 for each 300 square feet of floor area |
| 1001.6-3 | Banks, Business and Professional Offices | 1 for each 200 square feet of floor area |
| 1001.6-4 | Bowling Alleys as | 5 for each alley, plus the necessary space set forth in this Section for affiliated uses such as bars, restaurants or other commercial uses |
| 1001.6-5 | Churches | 1 for each 5 seats in places of worship |
| 1001.6-6 | Dance Halls and Assembly Halls without fixed seats; Exhibition Halls, except church assembly rooms in conjunction with auditoriums. | 1 for each 100 square feet of floor area used for assembly or dancing |
| 1001.6-7 | Dwellings | 2 for each family or dwelling unit |

1001.6-8	Funeral Homes, Mortuaries	1 for each four seats in the auditorium
1001.6-9	Hospitals	1 for each 3 beds
1001.6-10	Rooming Houses, Lodging Houses	1 for each 2 bedrooms
1001.6-11	Libraries, Museums, or Galleries	1 for each 600 square feet of floor area
1001.6-12	Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	1 for each 300 square feet of floor area
1001.6-13	Medical and Dental Clinics and Offices	1 for each 200 square feet of floor area
1001.6-14	Motels and Hotels	1 for each living or sleeping unit
1001.6-15	Restaurants, Cafe and Night Clubs	1 for each 200 square feet of floor area
1001.6-16	Retail Stores, Shops, etc.	1 for each 200 square feet of floor area
1001.6-17	Sanitariums, Convalescent Homes, Homes for the Aged, Children's Homes	1 for each 3 beds
1001.6-18	Theaters, Assembly Halls, other than Schools	1 for each 5 seats
1001.6-19	Wholesale Establishments or Warehouses	1 for each 3,000 square feet of floor area
1001.6-20	In the case of a use not specifically mentioned above, the requirements for off-street parking facilities to which said use is similar shall be set forth by the Zoning Officer.	

SECTION 1002 REQUIREMENTS OF OFF-STREET PARKING SPACES

1002.1	The size of off-street parking spaces shall be 10 feet wide by 20 feet long for all side parking or 8 feet wide by 23 feet long for all parallel parking.	
1002.2	Off-street parking facilities shall be located as hereinafter specified. Where distance is specified, such distance shall be measured from the nearest point of the parking facility to the nearest point of the building or use such facility is required to serve. Off-street parking space shall be allowed in required yards except where specifically prohibited by this Code.	
1002.2-1	Multi-family dwellings, not more than two hundred (200) feet from the building they are required to serve.	
1002.2-2	For uses located in the B-1 district, and for hospitals, sanitariums, convalescent, nursing and rest homes, homes for the aged, retirement homes, private clubs, lodges, and offices, not more than one hundred (100) feet from the building they are required to serve.	
1002.3	For uses other than those specified above, not more than three hundred (300) feet from the building they are intended to serve.	
1002.4	Necessary passageways and driveways for entrance and exit to parking space shall be	

provided.

- 1002.5 All parking areas, passageways, and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the Zoning Officer.
- 1002.6 The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one (1) or more of the collective users.
- 1002.7 All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
- 1002.8 Off-street parking areas located in commercial zones and which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the Building Inspector and located not greater than sixty (60) feet on center.

SECTION 1003 LOADING SPACES

- 1003.1 Loading spaces shall be provided and maintained on the same premises with every building, structure or part thereof, erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles, of material or merchandise.
- 1003.2 Such space shall be adequate for standing, loading and unloading services, in order to avoid undue interference with use of public transportation.
- 1003.3 Loading and unloading space shall not be occupied or considered as any part of the required off-street parking.
- 1003.4 All business districts shall include a 10 foot by 25 foot loading space with a 14 foot height clearance, for every 20,000 square feet or fraction thereof of building floor or land use for the above mentioned purposes.

**ARTICLE XI
SIGN REGULATIONS**

SECTION 1101 DEFINITIONS OF TERMS AND PHRASES

- 1101.1 The "**area**" of a sign shall be the surface devoted to the conveying of the message exclusive of the structure to support it properly, trim and framing device and any appurtenances required in construction. In the case of open sign structures not having a solid surface or a sign not otherwise inscribed in a definitive area, the area of the sign shall be taken as the area required to circumscribe all letters and devices exclusive of supports.
- 1101.2 The "**value of sign**" shall mean the cost of the sign, when it was originally constructed.
- 1101.3 The term "**sign**" shall mean any material, structure, or device, or any part thereof, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs, or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration, or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public.
- 1101.4 The term "**erect**" shall mean to build, construct, alter, repair, display, relocate, attach, hand, place, suspend, affix' or maintain any sign, and shall also include the painting of exterior wall signs.
- 1101.5 The term "**front**" or "**face**" of a building shall mean the outer surface of a building which is visible from any private or public street or highway.
- 1101.6 The term "**illuminated sign**" shall mean any sign illuminated by electricity, gas, or other artificial light, including reflective or phosphorescent light.
- 1101.7 The term "**lighting device**" shall mean any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
- 1101.8 The term "**projecting sign**" shall mean any sign which projects from the exterior of any building.
- 1101.9 The term "**accessory sign**" shall mean any sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- 1101.10 The term "**non-accessory sign**" shall mean any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

SECTION 1102 PERMITTED SIGNS IN ALL DISTRICTS

- 1102.1 The following signs are permitted in any appropriate district without a permit.
- 1102.1-1 Professional nameplates that shall not exceed two (2) square feet in area on either of two (2) sides.

- 1102.1-2 Signs denoting the name and address of the occupants of the premises, which signs shall not exceed two (2) square feet on either of two (2) sides.
- 1102.1-3 Signs denoting the architect, engineer, or contractor placed on the premises where construction, repair, or renovation is in progress, which signs shall not exceed ten (10) square feet in area on either of two (2) sides. This sign must be removed from the premises within seven (7) days after such construction, repair, or renovation is completed.
- 1102.2-1 Signs advertising the sale, lease, or rental of the premises upon which the sign is located, which sign shall not exceed six (6) square feet in area, provided such sign is erected or displayed not less than five (5) feet inside the property line. This sign must be removed from the premises within seven (7) days after the property is sold or leased. Not more than one (1) sign shall be permitted for each street contiguous to the premises, but in no case shall there be more than two (2) signs on the premises.
- 1102.2-2 Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed sixteen (16) square feet in area, and shall be located on the premises of such institutions, provided such signs or bulletin boards are erected or displayed not less than five (5) feet from inside the property line.
- 1102.2-3 Any sign advertising a commercial enterprise, including real estate developments, apartments, or subdivisions, permitted in a district zoned Residential by any zoning regulation shall not exceed ten (10) square feet in area on either of two (2) sides, and shall advertise only the name of the owner, trade name, products sold, and/or the business or activity conducted on the premises where such sign is located, provided no more than two signs shall be allowed for each such business or commercial activity conducted on the premises which shall in all respects conform to the provisions of this Local Law respecting establishments in business districts.

SECTION 1103 PERMITTED SIGNS IN ALL AGRICULTURAL AND RESIDENTIAL DISTRICTS

- 1103.1 All signs permitted in Section 1102, subject to the requirements specified therein.

SECTION 1104 PERMITTED SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS

- 1104.1 Size and Placement
 - 1104.1-1 One (1) free standing, projecting, or grounding sign per street frontage not exceeding sixty (60) square feet in area nor more than twenty (20) feet in height nor less than twelve (12) feet above ground level when not attached to a building, and which advertises only the name of the business, trade names, trademark, or activity conducted on the premises where the sign is located
 - 1104.1-2 One (1) fascia sign attached to or applied on each building or portion thereof, which sign shall not exceed two (2) square feet for each lineal foot or frontage (to maximum of one hundred (100) square feet) occupied by each building on the premises. Where a building has frontage on more than one street or public highway, one such sign shall be permitted for each street frontage.

- 1104.1-3 The Zoning Officer may grant permits for the erection of directional signs or office identification signs provided that the individual signs do not exceed two (2) square feet in area and provided that they conform to the regulations herein:
- A.** Directional signs shall be limited to the text "Office", "Entrance", "Exit" or "Parking". Such signs may be provided with indirect illumination.
- B.** Office identification signs may be attached to an exterior wall of a building adjacent to public entrances. Such signs shall be un-illuminated and limited in text to the name of a resident firm or corporation, being allowed one (1) such sign per street frontage.
- 1104.2 The top of the sign, advertising structure or device shall not exceed twenty (20) feet above the ground level on which the sign is located. This height is permitted only when special circumstances make it necessary.
- 1104.3 Materials and Shapes.
- 1104.3-1 Each sign shall be constructed of wood, metal, or other durable material approved by the Zoning Officer.
- 1104.3-2 Simple forms, such as rectangles, squares, ovals, or circles are permitted. Other forms are subject to approval by the Zoning Officer.
- 1104.4 Sign Set-backs. All free-standing signs must be placed at least ten (10) feet from the street right-of-way.
- 1104.4-1 No free-standing sign shall be erected or maintained nearer the building facade than three (3):feet. Such signs may not exceed 60 square feet area on either of two (2) sides.
- 1104.4-2 Before a permit for a sign is granted, its location in relation to blocking visual access to existing signs is also considered.
- 1104.5 Text on Permitted Signs. The text on each sign is subject to approval by the Zoning officer and is limited to:
- 1104.5-1 Name or assumed name of the owner of the property on which it is located;
- 1104.5-2 Principal business or businesses conducted on the property;
- 1104.5-3 Brief indication of product or services available.
- 1104.6 Illumination. Only white artificial and indirect lighting shall be used to illuminate a permitted sign. No flashing, intermittent or moving light or lights shall constitute a part of, or be used to illuminate, a permitted sign. No light shall be placed in such a manner that it is a hazard to the traveling public, or shall cause any objectionable glare, either direct or reflected.

SECTION 1105 SIGNS FOR WHICH PERMITS ARE REQUIRED

- 1105.1 No sign, advertising structure or device which advertises the principal business or principal businesses conducted on the property on which the sign is located shall be maintained or erected without a permit, except those specifically permitted in Section 1111.

SECTION 1106 SIGNS FOR WHICH PERMITS WILL NOT BE GRANTED

- 1106.1 Signs containing flashing, intermittent, rotation, or moving light or lights.
- 1106.2 Moving signs: A sign that move or contain visible parts which move or other simulations of movement.
- 1106.3 Signs containing luminous material, sequin studded letters, or lettering with fluorescent paint.
- 1106.4 "A" type signs: Portable free-standing or "A" type signs.
- 1106.5 Advertising devices: No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices. The said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.
- 1106.6 Signs on rocks, trees, etc.: Signs affixed to or painted upon rocks, trees, utility poles, or other such structures.
- 1106.7 Signs painted on buildings, fences, etc., except those painted upon a constructed sign background structure.

SECTION 1107 PROCEDURE FOR RECEIVING PERMIT

- 1107.1 Application for Permit: Application for the permit shall be made in writing in duplicate, upon forms prescribed and provided by the Zoning Officer to the Zoning Officer and shall contain the following information:
 - 1107.1-1 Name, address, and telephone number of the applicant.
 - 1107.1-2 Location of building, structure, or land to which, or upon which, the sign is to be erected.
 - 1107.1-3 A detailed drawing or blueprint showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; position of lighting and other extraneous devices; a location plan showing the position of the sign on any building or land, and its position in relation to nearby buildings, structures, or existing signs, and to any private or public street or highway.
 - 1107.1-4 Written consent of the owner of the building, structure or land to which or upon which the sign is to be erected, in the event the applicant is not the owner thereof.
 - 1107.1-5 A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.
- 1107.2 FEES - See Fee Schedule
 - 1107.2-1 The fees to be paid to the Town of North Dansville for the erection of each sign and for each of the conforming signs now erected in the Town as of the effective date of this Local Law shall be according to Fee Schedule posted in Town Clerk's Office.
 - 1107.2-2 The Zoning Officer or other designated Town official shall issue a permit number for each sign which shall be permanently attached to or displayed on each sign, billboard, or structure so that it may readily be ascertained that a permit has been issued for each

use.

- 1107.3 Issuance of Permit. It shall be the duty of the Zoning Administrative Officer, upon the filing of any application for a permit to erect a sign, to examine such plans, specifications and other plans submitted to him with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this Local Law and other laws and Ordinances of the Town of North Dansville he shall then, within ten (10) days, issue a permit for the erection of the proposed sign. If the sign authorized under such permit has not been completed within six months from the date of issuance of such permit, the permit shall become null and void, but may be renewed within ten (10) days from the expiration thereof, for good cause upon payment of an additional fee as per Fee Schedule.

SECTION 1108 REVOCATION OF PERMIT AND REMOVAL OF CERTAIN SIGNS.

- 1108.1 No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this Local Law. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted, and free from all hazards, such as but not limited to, faulty wiring, loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health and safety. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written or personal notice, specifying the named owner of the land upon which the sign is located, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the sign and the owner of the land within thirty (30) days from the date of receipt of said notice. In the event such sign shall not be so conformed within thirty (30) days, the Zoning Officer shall thereupon revoke the permit, and such sign shall be removed by the named owner of the sign and/or the named owner of the land.
- 1108.2 Any sign existing on or after the effective date of these regulations, which no longer advertises an existing business conducted or product sold on the premises upon which sign is located, shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Zoning Officer, after determining that any such sign exists, shall notify the owner of the premises, in writing, to remove the said sign within thirty (30) days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the Zoning Officer is hereby authorized to remove such sign, and shall assess all costs and expenses incurred in said removal against the land or building upon which such sign is located.
- 1108.3 If the Zoning Officer shall find that any sign regulated by this Local Law is unsafe or insecure, or is a menace to the public, he shall give written notice to the named owner of the land upon which the sign is erected, who shall remove or repair the said sign within thirty (30) days from the date of said notice. If the said sign is not removed or repaired, the Zoning Officer shall revoke the permit issued for such sign, as herein provided, and may remove or repair said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which the sign was located. The Zoning Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

SECTION 1109 TEMPORARY SIGNS

- 1109.1 All signs of a temporary nature such as political posters, banners, promotional devices and other signs of a similar nature may be granted a temporary permit for a period not to exceed sixty (60) days, provided that such signs are not attached to fences, trees, utility poles, or the like, and further provided that such signs are not placed in a

disturbance to the health and welfare of the general public. A fee, as per Schedule, shall be paid upon issuance of a permit for such sign and a cash deposit shall be deposited with the Zoning Officer to insure the removal of such sign at the expiration of the permit. The Zoning Officer after ten (10) days written notice to the permit-holder to remove such sign and after the failure of the permit-holder to do so shall cause said sign to be removed and the cash deposit shall be forfeited to help defray the cost of removal.

SECTION 1110 AMORTIZATION OF NON-CONFORMING SIGNS

- 1110.1 To prevent hardship, owners are allowed to use signs which have been in existence prior to the effective date of this Local Law, until their value is depreciated, provided that such signs were registered prior to such effective date on standard forms for that purpose provided by the Zoning Officer, whereupon permits are deemed to have been granted for the signs. The Zoning Officer may require the owner of the sign to submit satisfactory proof of the date of erection of such sign and the remaining or un-depreciated life of the sign. The normal depreciable life of a sign as approved by the Internal Revenue Service is ten (10) years. Except as otherwise provided in this Part, non-conforming signs shall be made to conform to the provisions of the Part or shall be removed when the value of the sign is depreciated.
- 1110.2 A non-conforming sign which is destroyed or which is damaged to an extent in excess of fifty (50) percent of its original construction shall not be replaced except by a sign which conforms to the regulations of this Local Law.
- 1110.3 Any sign which existed on the effective date of this Local Law shall not be enlarged, structurally altered or relocated, except in accordance with the provisions of this Part. For the purposes of this section, the refurbishing of non-conforming signs does not extend the useful life of the sign nor its value. Repairs are limited to those necessary to maintain the sign in a safe and attractive condition. Where non-conforming signs are registered and subsequently refurbished by replacing parts or portions of the sign, or changing the text of the sign, such sign shall be considered illegal and in violation of Section 1107 of this Local Law.

SECTION 1111 EXCEPTIONS

- 1111.1 None of the provisions of this Local Law shall be construed as preventing or limiting any sign or directional device erected by the Federal, State, County or local government or agency thereof.
- 1111.2 The limitations on sign area as set forth by this Local Law shall not apply to parking lot markers, directional signs, entrance and exit signs and other such signs which are erected on the premises provided that such signs do not exceed two (2) square feet in area on any one (1) side and do not contain any advertising of the use on the premises.

**ARTICLE XII
USES REQUIRING SPECIAL USE PERMITS**

The following uses may be permitted provided a Special Use Permit is obtained from the Zoning Board of Appeals under the terms and specifications herein. Whereas the necessity for certain specific uses is recognized and at the same time appreciating the fact that they or any one of them may be, or become, inimical to the public health, safety, and general welfare of the community if located without consideration to the existing conditions and surroundings, the following standards and proceedings are hereby established which are intended to provide the Zoning Board of Appeals with a guide for the purpose of reviewing certain uses not otherwise permitted in the Local Law. The Zoning Board of Appeals shall review and administer applications for the following uses according to procedures spelled out for the Zoning Board of Appeals under Article III of this Local Law.

SECTION 1201 PUBLIC UTILITIES

- 1201.1 Public utility uses, such as dial equipment centers, and substations but no service or storage yards may be permitted in any district with a Special Use Permit. No Special Use Permit shall be issued unless the Board of Appeals shall determine that:
 - 1201.1-1 The proposed installation in specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located.
 - 1201.1-2 The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.
 - 1201.1-3 Adequate and attractive fences and other safety devices will be provided.
 - 1201.1-4 A buffer strip ten (10) feet in width shall be provided around the perimeter of the property.
 - 1201.1-5 Adequate off-street parking shall be provided.
 - 1201.1-6 All of the area, yard and building coverage requirements of the respective zone will be met.

SECTION 1202 MOTOR VEHICLE SERVICE STATIONS

- 1202.1 Motor vehicle service stations may be permitted in such districts as specified in Article VI of this Local Law, provided that they comply with the New York State Building and Fire Code, and the following standards are observed:
 - 1202.1-1 In addition to the information required in the special permit application and enumerated in Section 204 of this Local Law, the site plan submitted shall also show the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth of the tanks will be placed below the ground, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
 - 1202.1-2 The area and yard specifications for motor vehicle service stations are identified in the Schedule of this Local Law.

- 1202.1-3 The entire area of the site traveled by motor vehicles shall be hard surfaced.
- 1202.1-4 Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- 1202.1-5 No vehicles shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those used by the employees in the indirect or direct operations of the establishment.
- 1202.1-6 Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans, and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or tank.
- 1202.1-7 No motor vehicle service station or public garage shall be located within five hundred (500) feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- 1202.1-8 Where a motor vehicle service station abuts a residential zone, it shall be screened by a buffer area no less than ten (10) feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Board of Appeals, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the station. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Zoning Officer may direct the property owner to replace said shrubs.
- 1202.1-9 All fuel pumps shall be located at least twenty (20) feet from any street or property line.
- 1202.1-10 In addition to the sign requirements for business uses in the districts, each motor vehicle service station shall be permitted to have one (1) free-standing or pylon sign setting forth the name of the station and for the principal products sold on the premises, including company or brand name, insignia or emblem, provided that such sign shall not exceed twenty (20) square feet in area on either of two sides and shall be hung within the property line and no less than ten (10) feet nor more than twenty-five (25) feet above the ground.
- 1202.1-11 Service stations may also exhibit one (1) temporary sign located no less than ten (10) feet inside the property line and specifically setting forth special seasonal servicing of automobiles, provided that such sign does not exceed seven (7) square feet in area.

SECTION 1203 HOSPITALS, PHILANTHROPIC AND CHARITABLE USES

- 1203.1 Hospitals, philanthropic and charitable uses, including nursing homes, extended and intermediate care facilities, but excluding correctional institutions may be permitted in the A, LR, and MR Districts, providing the following standards are maintained:
 - 1203.1-1 The proposed use shall meet the area and yard requirements as specified in the Schedule of this Local Law.
 - 1203.1-2 A set of plans and a statement setting forth full particulars on the operation of this use is filed in triplicate with the Board of Appeals.

- 1203.1-3 The front, rear, and side yard shall be increased one (1) foot for each foot by which the proposed building exceeds the height limit established for the zone in which it is to be located, but in no case shall any building exceed a height greater than fifty (50) feet.
- 1203.1-4 Off-street parking shall be provided as required in Section 1002. Adequate buffering and landscaping will be provided as the Board of Appeals may determine necessary.
- 1203.1-5 One (1) illuminated, non-flashing sign not to exceed thirty (30) square feet in area may be provided. Such sign shall not be closer than ten (10) feet from any street or property line.

SECTION 1204 CAMP GROUNDS

- 1204.1 Camp grounds may be permitted in the Agricultural District (A) provided that the following standards are observed:
 - 1204.1-1 No portion of the property for which a Special Use Permit is sought is within one thousand (1,000) feet of any water course which is part of any water supply system.
 - 1204.1-2 All provisions of the Sanitary Code or such other regulations of the State Health Department pertaining to camps shall be complied with.
 - 1204.1-3 The number of persons to be accommodated in such camps shall not exceed one (1) person per twenty-five hundred (2500) square feet of area within such grounds.

SECTION 1205 EXCAVATION OPERATIONS

- 1205.1 Excavation operations, including the extraction of sand and gravel and processing or other operations for the preparation of sand and gravel, may be permitted in the A District of the Town, provided that the following conditions and standards are observed:
 - 1205.1-1 The minimum lot area for any such use shall be ten (10) acres; all buildings and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line. The Board of Appeals may require fencing or some similarly effective barrier six (6) feet in height where excavations are to exceed a depth of four (4) feet.
 - 1205.1-2 All buildings and structures used in such operations shall be dismantled and removed within twelve (12) months following the termination of the operations; shall be made at the expense of the operator; and shall be a condition of approval of the Special Use Permit.
 - 1205.1-3 All buildings, structures and plants used for the processing of excavated materials shall be maintained so as to assure that such buildings, structures and plants shall not become dangerously dilapidated.
 - 1205.1-4 All equipment used for the excavation of sand and gravel and processing thereof shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations and dust conditions which are injurious or substantially annoying to all persons living in the vicinity; all operations shall be conducted between the hours of seven o'clock in the morning and six o'clock in the evening, except on Sundays and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

- 1205.1-5 All land which has been excavated must be rehabilitated in accordance with standards set within one (1) year after the termination of operations; at the expense of the operator and shall be a condition of the approval of the Special Use Permit. It is further provided that where an excavation operation has lasted longer than one (1) year, rehabilitation of land in accordance with standards set must be begun and completed within one (1) year's time. The Zoning Officer shall require the operator to cease excavation operations when the above standard is violated until the operator complies.
- A.** All excavations must either be made to a water-producing depth, or graded and back-filled.
- B.** Excavations made to a water-producing depth shall be properly sloped to the water line, with banks sodden or surfaced with soil of an equal quality to adjacent land area topsoil; such topsoil required under this Section must be planted with trees, shrubs, legumes, or grasses upon the parts of such areas where re-vegetation is possible.
- C.** Excavations not made to a water-producing depth must be graded or back-filled with non-noxious, non-flammable, non-combustible, solid material and in a topographic character which will result in substantial general conformity to adjacent lands; such grading or back-filling shall be surfaced with a soil equal in quality to that of adjacent land area and planted with trees, shrubs, legumes or grasses upon the parts of such areas where re-vegetation is possible.
- 1205.1-6 The Zoning Board of Appeals shall not grant a Special Use Permit for an excavation operation when the area in which the operation is proposed exhibits a residential character. The Zoning Board of Appeals shall consider an area to have a residential character when a circle (radius - 2,980 feet) drawn around the center of the proposed use contains one-third of the homes the area (approximately one (1) square mile) of the circle would have if developed to the density allowed by this Zoning Officer.
- 1205.1-7 The Zoning Board of Appeals may require a performance bond or some other financial guarantee that the conditions of the granting of the Special Use Permit are carried out.

SECTION 1206 HOME OCCUPATIONS

- 1206.1 Home occupations or home professional occupations may be permitted in any residential district provided the following standards are maintained:
- 1206.1-1 Proposed use is restricted to a member of the family unit residing on the premises with the exception, that not more than one person residing on the premises may be employed by licensed brokers and/or other such professional occupations.
- 1206.1-2 Home occupations or professional use is clearly subordinate to the principal use of the dwelling for residence purposes.
- 1206.1-3 Not more than twenty-five (25) percent of the total floor area of the principal building and associated accessory buildings may be used for such home occupation or profession.
- 1206.1-4 Not more than one name plate identifying the name and nature of said occupation shall be permitted. Said name plate shall not exceed two (2) square feet in area on either of two (2) sides.

- 1206.1-5 Proposed use shall not generate traffic beyond that normally expected in a residential neighborhood. Off-street parking shall be provided as required in Section 1002. Said parking shall be provided in an off-street area other than the front yard or on-street where parking is available.
- 1206.1-6 The proposed use shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons off the premises. In the case of electrical interference, there shall be no radio or television disruption or fluctuations in line voltages off the premises.

ARTICLE XIII ADULT ENTERTAINMENT

§1301.1 **PURPOSE** – It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of North Dansville, this section is intended to restrict adult uses to nonresidential and non business areas of the town. The Town board hereby finds that the operational characteristics of adult uses are concentrated; therefore, this section is intended to promote the health, safety and general welfare of the residents of the Town of North Dansville by regulating the concentration of such uses.

§1301.2 **DEFINITIONS** – Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section it's most reasonable application.

ADULT BOOKSTORE – An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals, films and viewing materials for sale or viewing on the premises, by use of a motion picture devices or any coin operated means, which are distinguished or characterized by their emphasis on matter depicting describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale or display of such material.

ADULT ENTERTIANMENT CABARET – A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

ADULT MINI-MOTION-PICTURE THEATER – An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION-PICTURE THEATER – An enclosed or unenclosed building or structure or drive theater used for presenting materials having a dominate theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT USE – Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to adult bookstores, adult motion-picture theaters and adult entertainment cabarets.

BUSINESS – Any commercial enterprise, association or arrangement for profit.

DISSEMINATION – The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

PERSON – Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

SPECIFIED ANATOMICAL AREAS:

- (1) Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

SUBSTANTIAL CONNECTION:

- (1) In a sole partnership, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.
- (2) In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business.
- (3) In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than 0% of any class of stock.
- (4) Any person who furnishes more than 20% of the capital financing or assets of such business, whether in cash, goods or services.

§1301.3 **Restrictions; applicability.**

In addition to the requirements of the Zoning Ordinance of the Town of North Dansville, adult uses shall be permitted subject to the following restrictions:

- A. No adult use shall be allowed within 500 feet of another existing adult use.
- B. No adult use shall be located within 500 feet of the boundaries of any zoning district which is zoned for residential use or commercial district.
- C. No adult use shall be located within 2,000 feet of a preexisting school or place of worship.
- D. No adult use shall be located in any zoning district, except those districts zoned industrial district.

- E. This chapter shall not apply to any establishment existing on the effective date of said ordinance.

§1301.4 **Observation from public way prohibited.**

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. Those provisions shall apply to any display, decoration, sign, show window, screen or other opening.

§1301.5 **Certificate of registration; fee.**

- A. No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment or any part thereof which contains an adult use, without first complying with the provisions of this section as set forth below.
- B. In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate nor be allowed to continue to operate, until a certificate of registration is filled with the Town Clerk containing:
 - (1) The address of the premises.
 - (2) The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) if the property is in a land trust.
 - (3) The name of the business or the establishment subject to the provisions of this chapter.
 - (4) The name, the business and home address and the business or home telephone number of all owners of the business or establishment subject to the provisions of this chapter.
 - (5) The names, the business and home addresses and the business or home telephone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this chapter.
 - (6) The date of the initiation of the adult use.
 - (7) The exact nature of the adult use.
 - (8) If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.
- C. If any changes occur in the information required for the certificate of registration, the Town Clerk shall be notified of such change and a new or amended certificate filed within thirty (30) days of such change.
- D. The processing fee for each certificate of registration or amendment thereto shall be \$1,000.00. Such certificate of registration shall be effective concurrently with the special permit issued annually as provided in §609-6, and the processing fee provided in this section shall be an annual charge.
- E. No certificate of registration issued under the provisions of this section shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferable for use at any premises, building or location other than that stated in the certificate of registration.

- F. The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.
- G. Any knowingly false statement, or any statement which the registrant or applicant should reasonably have know to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration.
- H. It is a violation of this section for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without having in force a certificate of registration complying with this section.

§1301.6 Special Use Permit.

- A. No Use described in this section shall be established until the issuance of an annual special use permit by the Town Clerk. Application for such a special use permit shall be in conformity with this chapter and as provided herein. The application shall be in writing, to the Town Clerk, and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed and such additional information as shall be required by the Town Clerk. The Town Clerk shall call a public hearing for the purpose of considering the request for each and every special use permit. At least ten (10) days notice of the time and place of the public hearing shall be given by the publication of a notice in a newspaper of general circulation in the Town of North Dansville, indicating the general nature of the public hearing and the fact that those persons having interested therein may be heard at the time and place of such hearing.
- B. A special use permit issued under the provisions of this section shall not be transferable.

ARTICLE XIV SOLAR ENERGY SYSTEMS

§1401. Authority and Legislative Intent.

The Board of Councilpersons of the Town of North Dansville states the following as its findings and legislative intent:

- A. This Article of the Zoning Local Law is adopted pursuant to Article IX of the New York State Constitution, the Municipal Home Rule Law and the Statute of Local Governments, which authorize the Town of North Dansville to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
- B. The Board of Councilpersons of the Town of North Dansville recognizes that solar energy is a clean, readily available, and renewable energy source and the Town of North Dansville intends to accommodate the use of solar energy systems.
- C. However, the Board of Councilpersons finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of North Dansville to protect residential uses, business areas and other land uses; to preserve the natural resources, overall beauty, nature and character of the Town of North Dansville; to promote the effective and efficient use of solar energy resources; and to protect the health, safety and general welfare of the citizens of the Town of North Dansville.
- D. Accordingly, the Board of Councilpersons finds that the adoption of these regulations in this Article is necessary to properly direct the location, size, construction and control of these Solar Energy Systems, and the removal thereof when no longer utilized.

§1402. Definitions.

The following definitions shall apply to this Article:

ABANDONMENT - a solar energy system that has not produced electrical energy to the extent of at least 40% of original nameplate capacity for twelve (12) months in any eighteen (18) month period, or as otherwise defined in Section 1406 A.

BUSINESS – Any entity engaged in commercial, industrial, or professional activities that provides employment opportunities and broadens the tax base.

APPLICANT - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project if different than the owner; any person acting on behalf of an Applicant, Solar Energy System owner or proposed Solar Energy System operator, the owner of the land on which the solar system is to be constructed, and all leaseholders of said land and/or said solar energy system. Whenever the term “applicant” or “owner” or “operator” are used in this Article, said term shall include any person or entity then acting as an applicant, owner, operator, or leaseholder of such land and/or such Solar Energy System.

BUILDING – A totally enclosed man-made structure.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM (onsite use) - Any Solar Energy System that is affixed to the side(s) or rear of a Building either directly or by means of support structures or other mounting devices, primarily intended to produce energy for onsite consumption or credit for onsite consumption for a building,

single-family residence, multi-family residence, business or farm but not including those mounted to the roof or top surface of a Building. (See definition of Roof-Mounted Solar Energy System)

COMMERCIAL BUILDING-MOUNTED SOLAR ENERGY SYSTEM (offsite use) - Any Solar Energy System that is affixed to the side(s) or rear of a legally permitted Building either directly or by means of support structures or other mounting devices, primarily intended to produce energy for offsite sale to and consumption by one or more customers.

COMMERCIAL ROOF-MOUNTED SOLAR ENERGY SYSTEM (offsite use) - A Solar Energy System mounted on the roof of any legally permitted Building and wholly contained within the limits of the roof surface, primarily intended to produce energy for offsite sale to and consumption by one or more customers.

DECOMMISSIONING - The removal and disposal of all Solar Panels, Solar Energy Equipment, Structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring, cabling, or debris, that were installed in connection with a Solar Energy System, and the total restoration of the parcel of land on which the Solar Energy System is built and soil thereon to their original state prior to construction, including but not limited to restoration, regrading, reseeding and rejuvenation of the soil to its preconstruction condition. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement as is required pursuant to this Article.

DECOMMISSIONING AGREEMENT - A written Agreement between Applicant, Initial Landowner, as well as the proposed solar energy system owner and operator, and Town that sets forth the obligations of the Applicant, the Initial Landowner, and proposed solar energy system owner and operator, and all of their heirs, successors and assigns to properly decommission the Solar Energy System when the use of such system is discontinued, abandoned, becomes inoperable or is terminated voluntarily or involuntarily for any reason.

FARM OPERATION – Land and on-premises buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law Section 301{11}).

FARMLAND OF STATEWIDE IMPORTANCE – Land designated as “Farmland of Statewide Importance” in the US Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops as determined by the appropriate state agency or agencies.

GLARE – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, nuisance, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the ground either directly or by support Structures or other mounting devices where such Structure and mounting exists primarily to support the Solar Energy System.

INITIAL LANDOWNER– The record title owner to the real property upon which a Solar Energy Systems is constructed, at the time the decommissioning agreement is executed, and the permits required by this law are obtained.

LEASEHOLDER- Any person or entity other than the owner that has obtained any right(s) to the solar energy system and/or the land on which it is situated.

LOCAL LAW, ETC. – Any reference herein to a law, local law, code, rule, or regulation shall mean said law, local law, code, rule or regulation currently in effect as it may be amended or replaced at any future time.

MATURE FOREST – Stands where fifty percent (50%) or more of the largest trees are 80 + years old or have an average trunk diameter of over 8 inches when measured two feet above its base.

NATIVE PERENNIAL VEGETATION – Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NAMEPLATE CAPACITY – A solar energy system’s maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of either Direct Current (DC) or Alternating Current (AC).

PRIME FARMLAND – Land, designated as “Prime Farmland” in the US Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

POLLINATOR – Bees, birds, bats, and other insects or wildlife that pollinate flowering **plants**, and include both wild and managed insects.

ROOF-MOUNTED SOLAR ENERGY SYSTEM (onsite use) - A Solar Energy System mounted on the roof of any legally permitted Building and wholly contained within the limits of the roof surface, primarily intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, farm, or business.

SITE PLAN REVIEW – The application, materials, procedures, and processes required by this Article 14 as well as Section 204.1 supra of this Zoning Law of the Town of North Dansville.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR ENERGY EQUIPMENT – All manmade materials associated in any way with the production and/or transmission of solar energy, but not to include any battery storage system or similar device.

SOLAR ENERGY SYSTEM - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

STORAGE BATTERY – a device that stores energy and makes it available in an electrical form.

TILT – The vertical angle, where 0° minimum tilt means the panel is lying flat, and 90° maximum tilt means that it is vertical.

TOWN – The Town of North Dansville, Livingston County, New York.

TYPE 1 SOLAR ENERGY SYSTEM (onsite use) – A Solar Energy System primarily intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business, or farm. Said system shall be considered an Accessory Use (as defined in §109 of this Zoning Law) and an Accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public. Such Type 1 Solar Energy Systems may consist of Solar Energy Systems located on multiple sites within the jurisdictional limits of the Town of North Dansville, owned by the same person, entity, farm, or business, but in no instance shall the aggregate yield on the combined systems equal more than 110% of the electricity

consumed by such person, entity, farm, or business within the previous 12 months. Type 1 Solar Energy Systems can be developed, operated, and maintained by a third-party by lease agreement or through a power purchase agreement. Type 1 systems can include Building-Integrated, Building-Mounted, Roof-Mounted, and/or Ground-Mounted solar energy systems intended to produce energy for up to 110% of on-site consumption.

TYPE 2 SOLAR ENERGY SYSTEM (offsite use) – A Solar Energy System primarily intended to produce energy for offsite sale to and consumption by one or more customers, as well as any solar energy system not included in the definition of Type 1 Solar Energy System above. Type 2 systems may also be referred to herein as “Commercial Solar Energy Systems”, and include Commercial Building-Mounted, Commercial Roof-Mounted and those Ground-Mounted Systems intended to produce energy for off-site consumption.

§1403. Regulations for Type 1 Solar Energy Systems:

A. **Zoning Districts in which Allowed.** Type 1 Systems are allowed in all zoning districts upon issuance by the ZEO of a zoning permit (Section 203.1-1) pursuant to section 204.1 based on the completed special application in form attached hereto at Appendix I together with all materials required thereby supplied by applicant to and approved by the ZEO. Note: unless otherwise specified herein, neither a Site Plan review nor a Special Use Permit are required

B. **Additional Requirements for Type 1 Roof Mounted Systems:**

1. Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface but shall not exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
2. No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, a minimum three (3) foot wide center walkway for safe access purposes shall be required.
3. Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
4. Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.

C. **Additional requirements for Type 1 Ground Mounted System**

1. Height. Type 1 Ground Mounted Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment to the ground directly beneath it.
2. Setbacks. Type 1 Ground Mounted Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
3. Coverage. Type 1 Ground Mounted Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings within the zoning district in which it is located and in no event shall the combination of all accessory uses located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum Tilt.
4. Glare. All Solar Panels shall have anti-reflective coating(s). Glare shall be minimized to prevent adverse effects on all surrounding lands as well as public highways.
5. All Type 1 Ground Mounted Solar Energy Systems shall only be installed in accordance with section 703.10.

6. All applications for Type 1 Ground Mounted Solar Energy Systems, except for residences and farms, shall be subject to Site Plan review pursuant to section 204.1.
7. Pursuant to 6 NYCRR 617.5, Type 1 Ground Mounted Solar Energy Systems to be used on residential and farm parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Ground Mounted Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.

§1404 Regulations for Type 2 Commercial Solar Energy Systems:

A. Zoning Districts in which allowed: Type 2 Ground Mounted Solar Energy Systems shall only be allowed in an Agriculture District (A), Industrial (I) both light and heavy, and/or a Conservation District (C). All other Type 2 Solar Energy systems are only allowed in the following zoning districts: Agricultural District (A), Business District (B), Light Industrial District (L-1), and Heavy Industrial District (I-2). All are allowed only after all requirements of this Article are met, including Site Plan approval pursuant to section 204.1, and the issuance of a Special Use Permit pursuant to §204.2. All applications for the installation of all Type 2 Commercial Solar Energy Systems shall be reviewed by the ZEO with the assistance of the Town Project Engineer and other professionals needed to determine if the application, along with all supporting documents and materials, is sufficient and complete. The application shall be accompanied by an escrow deposit by the applicant payable to the Town in the initial amount of Fifty Thousand Dollars (\$50,000.00), to be used by the Town as allowed herein. The application process shall not begin, and the application shall not begin to be reviewed, until said escrow amount is paid to the Town in full. Once the application is deemed sufficient and complete, the application shall be referred, with comments, to the Planning Board (PBD) (for Site Plan) and the Zoning Board of Appeals (ZBA) (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial. For purposes of Type 2 solar energy systems, the ZBA and PBD shall work together and hold joint meetings to promote efficiency of the processes required herein. The procedure for same shall be as determined at the time by the chairpersons of said two boards. If they cannot agree, the procedure shall be set by the Town Board. This does not take away the separate authority of said boards, with the PBD having authority for site plan review and the ZBA having authority to issue the special use permit.

B. SPECIAL USE PERMIT AND SITE PLAN REVIEW APPLICATION FOR ALL TYPE 2 SYSTEMS:

The Site Plan Review Application shall include all information required by Sections 204.1, 204.2 and 205 as well as but not limited to those materials necessary to show full compliance with all the applicable Design Standards set forth in Section 1404 C below such as all size and setback dimensions (1404 C), a glare analysis (1404 C1b), an emergency accessibility plan (1404 C1c), a noise study (1404 C1e), a fencing/screening/buffering plan, a vegetative management plan, a landscaping plan, and a viewshed impact analysis with renderings showing visual impacts after five (5) and ten (10) years (all stated in 1404 C4f), a vegetation habitat plan (1404 C4j), and a soils composition study and map (1404 C4g). In addition to the above, the following shall also be submitted for the Special Use Permit application as well as where applicable for Site Plan Review:

(Note: all materials, documents and information must be fully satisfactory to and approved in form, substance, and detail by both the ZBA and PBD.) Further, each said Board shall have the latitude to require in its sole satisfaction such other data and materials as in its reasonable judgment is required to ensure that the project is constructed in the best interest of the public safety and welfare of the Town and its inhabitants.

1. Proof satisfactory to the ZBA that the proposed Owner of the solar energy system to be developed owns the required land on which said system is to be developed or has leased said premises for the entire useful life of the system. If the location of the proposed project is to be leased (either building facade or surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including all signed lease agreements, easements, and other agreements between the parties. The lease agreement(s) between the proposed Solar Energy System owner and/or leaseholder(s) and an Initial Landowner(s) shall conform to or be amended to conform with the requirements set forth in this Article and in the Decommissioning

Agreement referenced in subsection 1403 B.11 below. To the extent that any lease terms are inconsistent with this local law, the terms of this local law shall control.

2. Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System with a detailed description and location of all components, all non-building mounted improvements and/or infrastructure, all post locations and any bedrock problems therewith, all proposed clearing and grading of the lot(s) on which the structure housing the Solar Energy System is situate, all anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Solar Energy System, and all utility lines (both above and below ground) on the site and adjacent to the site. Also, a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building upon which a Commercial Building-Mounted and/or Roof Mounted Solar Energy System is to be placed to support such system in a safe fashion. For ground-mounted systems, the applicant shall provide an adequate Post-Refusal Plan/Study to determine proper foundation selection and avoid installation issues. Soil bore testing shall be performed and alternate foundation designs should be considered and planned for if post refusal occurs. Results shall be provided to the ZEO and Town Project Engineer.
3. An instrument survey prepared by a licensed New York State land surveyor showing all lot lines of the premises on which the system is to be constructed, as well as the locations and area dimensions of all existing and proposed structures thereon together with their present and intended future uses, as well as the property lot lines and the locations and area dimensions of all existing Buildings and other Structures and their uses on all parcels within 500 feet of the outer perimeter of the Solar Energy System.
4. Equipment specification sheets for all Solar Panels, significant components, mounting systems, inverters and all other Solar Energy equipment that are to be installed. The solar panel model type, manufacturer and country of origin, number of equipment pads, and full design layout shall be provided. Currently, tracking arrays are preferable until newer more efficient technology is available. All equipment to be installed must be new and not used or recycled, using the latest, most efficient technology, and shall have a minimum life expectancy of at least twenty-five (25) years, all as determined and accepted by the Town Project Engineer. Final specification sheets, material safety data sheets, and chemical composition data as well as the installation thereof shall be reviewed by the Town's Project Engineer to ensure that all are as allowed by the site plan and special use permit and by local/state/federal regulations are met. Submission shall include the identification of the solar manufacturers and all hazardous and non-hazardous components. All hazardous components shall be identified, and their impact mitigated by the Applicant to the Town's satisfaction.
5. A site-specific Property Operation and Maintenance Plan acceptable to the Town describing in detail all ongoing as well as periodic preventive, corrective and efficiency productive maintenance of the Solar Energy System and upkeep of the property that houses such Solar Energy System throughout the useful life of the system. The Plan shall require that at all times the system continue to be in good and efficient operation, nameplate capacity be maintained, the premises maintained and kept in good condition, all accessory roads and thoroughfares maintained and clear to allow for all necessary emergency access, and that the ground soil not be damaged or contaminated. The plan shall specify the maximum time or other measure by which damaged panels and equipment must be repaired or replaced, access roads plowed and maintained, weeds removed, as well as other times required by the Town. The Plan shall also require a requirement for updating panels and equipment as new and/or more efficient technology becomes available. Among other things, the plan should also consider and set forth requirements for a) potential/proposed pesticide/herbicide/fertilizer use, b) potential/proposed water use or well-drilling, c) vegetative abatement and maintenance procedures, d) practices to adhere to applicable local, state and federal regulations, e) practices to minimize impacts to pollinator habitat, on-site wetlands and any potential future agricultural co-location practices, f) submission of all proposed recycling and removal/disposal/containment/hauling procedures, covering all solar energy system components/panels, costs and timelines and g) identification of waste disposal sites and certified recyclers to be used for regular maintenance removal as well as decommissioning. If wetlands and/or streams are located on the subject parcel, a Wetland Delineation Plan and associated correspondence from NYSDEC must be submitted, along with a copy of the Stream and Wetland Remediation Plan to be submitted to NYSDEC for any unintended disturbances. At all times after construction begins and until decommissioning is complete, the Town shall be provided access and allowed to inspect the

premises and system on any day upon giving 24 hours' notice by telephone or email to the last known contact point of the system operator or owner and shall be able to enter forcefully if access is not so allowed. The then current system owner and operator shall keep the ZEO advised at all times of the names and all contact information for all persons and agents of the system owner and operator responsible for access to and maintenance of the system and shall timely comply with all code violation orders served by the ZEO on any such person or agent. The owner and system operator shall conduct preventive maintenance of the solar energy system at least every two (2) months as well as immediately after all severe weather events and shall submit detailed inspection and remedial repair reports to the ZEO within one (1) calendar week thereafter. All maintenance shall be the joint and several responsibilities of the system owner, system operator, the landowner and all of their successors and assigns.

6. Clearing, grading, storm water and erosion control plan. If circumstances necessitate, as determined by the PBD, ZBA and/or the Town's Project Professional Engineer or consultant, Applicant shall prepare and submit a Storm Water and Erosion Control Plan prepared by a New York State Professional Engineer to the Town's Project Engineer for review and approval. The plan shall demonstrate that any and all effects from post development runoff, storm drainage and erosion will not negatively impact the property and/or adjacent premises at any time during the useful life of the solar energy system or after decommissioning is complete.
7. A Construction Schedule Flow Chart along with approximate data on anticipated truck trips per day, including during peak material delivery periods, and anticipated totals for the entire project. Also, the size and locations of all staging areas, parking areas, as well as other areas off-site to be used. Construction and construction traffic shall be conducted on such days and at such hours as approved by the PBD to reduce the noise and negative effect on others. Truck/hauling routes shall be established for all construction and delivery equipment. State, County and local approval for such road use shall be obtained and submitted.
8. All such additional information as may be required by the Town's project professional engineer or consultant, the PBD, the ZBA, Town Attorney and/or ZEO.
9. An irrevocable construction bond and/or irrevocable letter of credit in form and amount determined by the Town Board equal to 150% of the cost to repair all potential damage to highways and all other public property during construction, the cost of full reclamation of the land and buildings to their preconstruction condition if the solar energy system is not timely completed, plus any other expenses anticipated to be incurred by the Town during construction, all of which the applicant, landowner and the proposed solar energy system owner shall be jointly and severally responsible for. If they fail to timely meet any of their responsibilities as determined by the Town Board, the Town may do so at the applicant's, landowner's and proposed system owner's expense which shall be paid in full to the Town by said bond. Said bond may be used to such extent at any time by the Town Board as it determines in its sole discretion if it incurs or is about to incur any such damages and/or expenses. If the bond is insufficient to cover all of the Town's expenses so incurred, the Town may take all other legal remedies allowed by law against all responsible parties.
10. Decommissioning Plan. To ensure the proper decommissioning of a Type 2 Solar Energy System after such improvements are no longer reasonably operable or have been abandoned or said system has been otherwise terminated, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan shall contain a written and visual photographic record of the original site condition (prior to commencement of construction of any Solar Energy System) with all necessary data and pre-construction soil sampling with survey grade accuracy to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Solar Energy System is no longer operational or has been abandoned or otherwise terminated, it shall be decommissioned, including the total removal of all solar related materials, equipment and foundations and pillars, and the full restoration of the premises and rejuvenation of the soil to their preconstruction conditions, as determined by the ZBA. Such decommissioning shall be totally completed within six (6) months after the system is no longer reasonably operable, is abandoned or is otherwise terminated, TIME IS OF THE ESSENCE. The plan shall demonstrate in full detail how the removal of all infrastructure of the Solar Energy System and

all Solar Energy Equipment shall be conducted, as well as the methods by which the premises shall be restored and the soil rejuvenated, so as to return the structure(s) and the entire premises to their original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. The Decommissioning Plan must be approved by the ZBA. Cost estimations shall factor in inflation and shall be based on the operating life expectancy of the system. Note: At the time of decommissioning, the Town, by the PBD, may but is not required to entertain the desires of the then current landowner as to what portions, if any, of the system can remain and do not need to be removed from the site.

11. **Maintenance and Decommissioning Agreement.** Prior to obtaining a zoning permit and as a condition to issuance of any Special Use Permit, the Applicant, Initial Landowner, the proposed Solar Energy System owner and operator, and all leaseholders must enter into a Decommissioning Agreement with the Town Board, with advice from the ZBA and PBD, that sets forth the joint and several obligations of the Applicant, the Initial Landowner, the solar energy system operator and solar energy system owner, all leaseholders, and all of their heirs, successors and assigns to properly maintain the Solar Energy System and decommission it when in the determination of the Town ZBA the use of such system is discontinued, abandoned, becomes inoperable or is otherwise terminated. Said Agreement shall require the Applicant to provide an irrevocable financial security bond, or other form of surety, acceptable in form, substance, and amount to the Town Board in its sole discretion for maintaining the system during its life as well as decommissioning of the system, with the Town as the designated assignee/beneficiary. The amount of the bond shall be determined by the Town Board, with input from the ZBA, PBD and town consultants. Said amount shall equal 150% of the estimated cost of maintenance of the system throughout system life, and the estimated decommissioning cost, including but not limited to the removal and disposal of all solar related materials and equipment, piers and foundations, and the total restoration of the premises and rejuvenation of the soil to their original preconstruction conditions. The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan. Said bond or other surety shall be in effect before the special use permit is granted and before any site work is commenced. The bond or other surety shall provide for an annual increase in the amount of the surety as determined yearly in the sole discretion of the Town Board to compensate for any use of the bond, the cost of inflation and any other then-anticipated increases in costs of maintenance and decommissioning. Each year after a Solar Energy System has been constructed, and no later than thirty (30) days after being notified by the Town of the new amount of the bond, the then system owner/permit holder for the system shall provide the Town written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to the new amount determined by the Town. The Maintenance and Decommissioning Agreement shall provide that the Initial Landowners, the Applicant, the initial Owners and initial Operator of the Solar Energy System, all leaseholders and all of their successors and assigns shall be jointly and severally responsible for the timely completion of all obligations pursuant to the Maintenance and Decommissioning Agreement. If any obligation(s) is not timely completed, the Town may complete the obligation(s) at the aforesaid obligors' expense; the Town shall have the irrevocable right to execute upon and be paid in advance from said bond for all anticipated expenses of completion including but not limited to all consultant costs. Said Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against all the property upon which the Solar Energy System is constructed, with the Town as the benefitted party, thus placing all future owners and interested parties of the subject real property on notice of the obligations contained in the said Agreement.

12. **Compliance with regulatory agencies.** As a condition to obtain a Special Use Permit the Applicant/proposed solar system owner is required to timely obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System. A copy of all such applications, all communications concerning same and the resulting approvals, permits and/or denials thereof shall be provided within seven (7) days from the time of its sending by or receipt by the applicant/proposed system owner to the Town, Attn the ZEO.

In addition, the New York State Department of Agriculture and Markets "Guidelines for Solar Energy Projects -Construction Mitigation for Agricultural Lands" currently in effect and as amended in the future shall apply, except to the extent this local law may be more restrictive.

13. Each application under this Section shall meet all substantive Site Plan requirements in §204.1 that, in the judgment of the PBD, are applicable to the Solar Energy System being proposed. The PBD shall be required to hold a public hearing relating to the Site Plan for every Type 2 Solar Energy System.
14. Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617). The PBD and the ZBA shall conduct a coordinated review.
15. The Applicant, system owner, system operator, and any other person(s) or entity(ies) then in control of the site shall be required to facilitate site visits by the PBD, ZBA, ZEO, the Town's Project Engineer, the Town's Environmental Monitor, and/or anyone on their behalf, upon their giving twenty-four (24) hour advance notice other than in case of emergency, at all times such Town personnel request during the Site Plan process to help facilitate site plan review, during the construction process to ensure that all requirements are being met, as well as during the operational life of the system and during its decommissioning. Failure to allow such Town personnel to enter onto and inspect said site as such personnel request shall allow such personnel to forcibly enter the premises. If such entry is prevented, operation of the solar energy system shall be automatically and immediately suspended.
16. **Highway Use Agreement.** Prior to issuance of any building permit for the construction, revision, or alteration of a Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter a written Highway Use Agreement benefitting the Town and in form and substance acceptable to the Town in its sole discretion. Such Highway Use Agreement shall require Applicant, the proposed solar energy owner, and the General Contractor to jointly and severally indemnify and hold the Town harmless from all damage to all highways within the Town that may result from the development, revision and/or alteration, operation and decommissioning of Applicant's Solar Energy System. As a part of such Highway Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety) acceptable to the Town in its sole discretion, benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above. Said surety shall be in an amount solely determined by the Town equaling 150% of all reasonable potential expense above required to be indemnified. The amount of the bond shall be reviewed and may be increased annually under the same guidelines and process as for the surety bond required for the Maintenance and Decommissioning surety bond in section 1404 B 11 above. The construction bond referred to above (Section 1404 B 9) may be used in lieu of this bond.
 - a. If any damage is caused to any Town highway because of the construction, revision, or alteration of an Applicant's Solar Energy System as determined in the sole discretion of the Town Highway Superintendent, said Applicant, proposed solar energy system owner and its General Contractor shall be jointly and severally responsible to perform repairs to such highway that are acceptable to the Town's Highway Superintendent in his/her reasonable discretion.
 - b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair is personally served or sent via certified mail or email to Applicant or its General Contractor. Should Applicant or its General Contractor fail to complete such repairs within sixty (60) days, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety), with written notice to Applicant and its General Contractor, in such amount as the Town requires in its sole discretion to make all such repairs.
 - c. A baseline investigation of Town Highways including photos/videos shall be required by the Town PBD prior to the beginning of construction, revision, or alteration of the solar energy site to determine the condition and integrity of the roadway. Likewise, a final investigation including photos/videos shall be conducted after the construction, revision, or alteration of the site is completed to determine if any substantial impacts have occurred due to the proposed project.
 - d. The proposed project should minimize potential parking, delivery, and traffic impacts on state, county, and local roadways. The proposed site plan should provide adequately sized construction staging and parking areas, including for the anticipated numbers of workers and equipment. These areas should be placed in order to minimize potential impacts to said roadways and nearby residences and other structures. At no time is loading or unloading equipment or materials allowed on said roadways. Adequate turning radii for trucks must be considered in the design of staging and

parking areas. The Applicant shall comply with New York State Department of Transportation permitting requirements and any additional needs for signage for traffic safety. The Applicant should submit the site plan, hauling/truck routes and trip data to the Town, Village and County Highway Superintendents and Town Project Engineer to ensure that the proposal meets all Town/ Village of Dansville, and County of Livingston approvals and permit requirements.

- e. The provisions of the Highway Use Agreement required hereby, and the requisite financial security bond (or other form of surety), shall remain in full force and effect for no less than one year after all construction, revision, or alteration has been completed and the project has been certified as complete by the Town's professional engineer.
- f. No building permit may be issued for any approved Solar Energy System until such time as a Highway Use Agreement has been executed by all parties.
- g. Traffic Routes. Construction and delivery vehicles for All Solar Energy System shall use traffic routes established as part of the application's review process, with advisement from the Town Highway Superintendent. Factors in establishing such corridors shall include but not be limited to:
 - (1) Minimizing traffic impacts from construction and delivery vehicles.
 - (2) Minimizing Solar Energy System related traffic during times of school bus activity.
 - (3) Minimizing wear and tear on local highways.
 - (4) Minimizing impacts on local businesses.
 - (5) Special Use Permit approval may contain conditions that limit Solar Energy System related traffic to specified routes and times and include a plan for disseminating traffic route information to the public.

17. **Community Benefit Agreement.** The owners or developers and landowners of the property upon which a Type 2 Solar Energy System is to be developed shall be required to enter into a community benefit agreement with the Town Board for payment by the owners, developers, and/or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with any Solar Energy System. A Special Use Permit may not be issued for any approved Solar Energy System until such time as a community benefit agreement has been executed by all parties.

18. **Bonds.** Instead of having several bonds or other forms of surety as required herein, the Town in its sole discretion may accept one (1) single bond or other form of surety acceptable to it, or irrevocable letter of credit that satisfies all the bond requirements herein. However, the Town still can require from applicant advance deposits as otherwise allowed herein to pay the costs of professional it engages. Further, the Town in its sole discretion can require one or more irrevocable letters of credit from a commercial bank it chooses to be provided by the applicant in lieu of or in addition to such bonds or other forms of surety. All such bonds, letters of credit, etc., shall contain terms that the sums requested by the Town shall be immediately paid to the Town in the amount it requests simply upon the presentation by the Town to the insurance company, other surety and/or bank only of a Notice by the Town to the Applicant or Project Owner that there is a default or other requirement and that said sum of money is owed to the Town. The Town shall not have any requirement to prove a default or support the amount of money it requests. Also, all such bonds, other forms of surety and irrevocable letters of credit provided must continue in effect for the entire life of the system through satisfactory decommissioning, whether or not there occurs any transfer of any rights and/or obligations of the applicant, project owner, project operator, land owner, or anyone else having a financial interest in said solar energy system.

19. A special use permit shall not be issued until ALL requirements and conditions for site plan approval and for such permit issuance are met to the full satisfaction of the ZBA and PBD, and a legal agreement is signed by applicant setting forth in full detail all such requirements and conditions relied on by the ZBA

and PBD for the permit to be issued. Every one of said requirements and conditions must then be completely fulfilled before an operating permit can be issued and the system can begin operation. If after operation begins, any of said conditions or requirements are failed to be met, both the special use permit and operating permit can be suspended, preventing further operation until all conditions and requirements are met again.

20. The Applicant/Owner and all successors and assigns shall secure and maintain public liability insurance in favor of the public and naming the Town as a co-insured. It shall be in effect from the issuance of the special use permit up through the completion of the decommissioning plan. The form, substance, terms, issuing company, and liability limits for all types of occurrences must be satisfactory to the Town Board.

C. Design Standards

1. Standards applicable to all Type 2 Solar Energy systems:

The following standards are applicable to all Type 2 systems:

- a. Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access. Adequate screening as determined by the PBD shall be provided to prevent any adverse effects to, and to maintain the beauty, character, and nature of, the locale.
- b. GLARE. All solar panels shall have anti-reflective coating. Glare shall be minimized to prevent adverse effects on all surrounding lands as well as public highways. The Applicant shall provide a glare analysis acceptable to the PBD.
- c. Every Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services and local fire chief. The roadways to and inside the solar system compound around the entire perimeter shall be twenty (20) feet wide and constructed, surfaced and maintained so as to be adequate as determined by the Town Engineer and local Fire Chief to allow for ingress, egress, and staging space for all potentially necessary emergency vehicles. Wiring between arrays (rows) of panels shall be underground, the cleared distance between rows with panels extended maximum horizontally shall be at least twelve (12) feet, and the surface of the land between rows flat, unobstructed, and in such condition so as to readily allow access by four-wheel vehicles throughout all rows of panels. One or more ingress gates to the site on each side of the site as located by the Town Engineer and local fire chief shall be installed to allow access for all emergency vehicles from all sides of the compound.
- d. Every solar energy system, the land thereon, all co-located uses therewith and the entire site shall be always maintained in good working order. Degraded or damaged solar panels shall be immediately removed from site and replaced. All trees and other plantings for screening purposes shall be trimmed at least yearly. All grass and weeds shall be mowed regularly and kept at a low level beneath the lowest level of panels for ground mounted panels. All perimeter access roads shall be maintained and plowed to allow emergency vehicles to travel into and throughout the site.
- e. NOISE. Noise levels from the solar energy system shall comply with the noise limits for solar energy facilities contained in the New York State Office of Renewable Energy Siting regulations at 19 NYCRR 900-6.5(b) by implementing the design required by 19 NYCRR 900-2.8. A study of the noise impacts of the construction and operation of the solar energy system shall be provided showing compliance with said standards and also showing minimum adverse effects on other properties in the area. Such study shall analyze the projected noise levels for both daytime and nighttime periods generated by the construction and operation of said system and all substation collector equipment relative to all effected dwellings in the area.
- f. The Town ZBA shall have the right at all times to approve in advance all of applicant's, system owner's and/or system operator's successors, assigns, subcontractors, lessees and/or other persons or entities to whom or which any rights or obligations concerning the solar energy system

are granted or transferred throughout the application, construction, operation and decommissioning stages. The Town ZEO must be notified at least sixty (60) days in advance before any transfer occurs. The new transferee must submit a signed written document agreeing to fully follow and adhere to all requirements and conditions of the site plan and special use permit or specify in detail how it intends to deviate from same. If any deviation is intended to occur or in fact occurs, the special use permit shall be automatically suspended and a new site plan review and special use permit application process shall be required before solar energy site operation may be resumed. Further the transferee must prove to the full satisfaction of the Town Board that all bonds, other forms of surety, irrevocable letters of credit and escrow funds and obligations shall fully continue in favor of the Town. No transfer of any rights or obligations shall occur or be allowed until approved by the Town Board and ZBA.

2. Standards also applicable to Type 2 Building-Mounted Systems
 - a. Height. Commercial Building-Mounted Solar Energy Systems shall be constructed in such a way that no portion of such system is higher than the highest point of the wall upon which it is attached.
 - b. Distance From Building. Energy Systems shall be constructed in such a way that no portion of the Solar Panels projects more than 18 inches from the surface of the wall upon which it is attached.
 - c. Number of Commercial Building-Mounted Solar Energy Systems allowed per Lot. No More than one Commercial Building-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.
3. Standards also applicable to Type 2 Roof-Mounted Systems:
 - a. Height and Angle. Commercial Roof-Mounted Solar Energy Systems shall be constructed such that Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but no portion of the Solar Energy System shall exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
 - b. Panel Location. No part of a Commercial Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, there shall be a minimum three feet wide center walkway between panel arrays for safe access purposes.
 - c. Equipment Location. Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - d. Number of Commercial Roof-Mounted Solar Energy Systems allowed per Lot. No more than one Commercial Roof-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.
4. Standards also applicable to Type 2 Ground Mounted Systems.
 - a. Height. Type 2 Ground Mounted Solar Energy Systems shall not exceed a maximum height of eighteen (18) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
 - b. Setbacks. Type 2 Ground Mounted Solar Energy Systems shall have a front setback no less than 200 feet (to enclosure fencing) from edge of pavement of any public or private roadways and setbacks of 100 feet (to enclosure fencing) from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 400 feet (to enclosure fencing) from any Dwelling or Accessory Building related to a Dwelling located on another parcel.
 - c. Lot/Parcel Size. Type 2 Ground Mounted Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.

- d. Lot/Parcel Coverage. Type 2 Ground Mounted Solar Energy Systems shall not exceed 25 acres of coverage on parcels that are 40 acres or more in size. On parcels that are less than 40 acres in size, Type 2 Solar Energy Systems coverage shall not exceed 60% of the total parcel size. Further, Type 2 Solar Systems coverage shall not be sited on more than 10% of any parcel of Prime Farmland and/or Farmland of Statewide Importance. If possible, siting of such systems on such farmland should be avoided. It is the intent of this latter restriction to protect the valuable resource and benefits of Prime Farmland and Farmland of Statewide Importance. It is the express intention of the Town that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems on Prime Farmland and/or Farmland of Statewide Importance by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt and shall not include required fencing or access roads.
Exception to prime farmland/ farmland of statewide importance restrictions: In those portions of industrial districts that contain active industrial uses that are likely to contain future industrial uses and are not likely to return to agricultural use, the aforesaid restrictions shall not apply.
- e. No Type 2 Ground Mounted System shall be permitted on that portion of any site that contains more than one (1) acre of Mature Forest at the time the application was filed or was a Mature Forest one (1) year prior to the submission of an application for the Type 2 Ground Mounted Project. Said forested area(s) shall not be included in calculating the parcel size in subparagraph d. directly above (Section 1404 C 4 d).
- f. Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. The Applicant shall be required to provide fence design and installation that is animal friendly and allows for small animal migration. Fencing shall have a minimum height of eight (8) feet above ground level. The fencing shall be covered in green material approved by the PBD to prevent view of the interior of the site. This material shall begin one (1) foot above ground level to allow for small animal migration. The fencing shall surround and enclose the entire site. A visual rendering of the actual fence design intended to be used shall be submitted to and agreed upon by the PBD. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the Solar Energy System shall be required to be further screened by landscaping to avoid adverse aesthetic impacts. All buffering/landscaping materials shall be designed with a staggered appearance as approved by the PBD to create a natural appearance, hide the site and be aesthetically pleasing, mitigate noise impacts, protect against possible disease, and promote sustainable, native species and environmentally conscious variety, which shall include a mixture of plant species, sizes/heights, deciduous and evergreen trees and/or shrubs and shall be noted in detail on a landscaping plan that shall be approved by the PBD. Minimum tree heights shall be eight (8) feet and shall be designed and located to hide the fencing from the road and/or neighboring residential areas. Any landscaping that does not flourish shall be immediately replaced, with approval of the type and location by the PBD. The PBD shall provide for enhanced screening and buffering for Type 2 Ground Mounted Solar Energy Systems that are placed adjacent to residentially zoned areas, areas containing residential parcels or abut a public road. The PBD can require pollinator plantings. For pollinator plantings, the highest-grade pollinator plant seed mixes, providing a greater percentage of pollinator plants over grasses, should be utilized. The Town should utilize a licensed landscape professional/Biologist/ Botanist to assist with the selection and location of site-appropriate native non-invasive landscaping plant and seed selections and any future plant replacements. Applicant shall provide a viewshed/line-of-site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening/landscaping at the completion of construction of the Solar Energy System, and similar visual renderings of the projected maturation of the buffering/screening every ten (10) years thereafter throughout the useful life of the Solar Energy System.
- g. Soil Composition and Site Condition. Applicant shall provide a written and visual photographic record of the pre-development site condition, which must be verified as to being complete by the ZEO to facilitate full and proper remediation of the site and rejuvenation of the soil upon decommissioning. Among other things, this shall include a comprehensive soil composition and nutrient analysis and map thereof prepared with survey grade accuracy for the entire parcel(s) of land of the landowner on which the solar energy system is to be built by a qualified expert acceptable to the Town Project Engineer. Once a soil sampling program has been conducted to

establish a benchmark for soil conditions throughout the parcel(s) where the solar energy system is to be sited, soil sampling comparisons shall be conducted at least every three (3) years to monitor soil conditions under and around the solar array areas. NYSDEC shall be notified and consulted if the results of the soil testing require soil mitigation measures. Soil testing shall be in accordance with Cornell University's soil testing guidelines.

- h. Number of Type 2 Ground Mounted Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per Lot or parcel, regardless of Lot size.
- i. Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the ZBA shall consider the Lot or parcel to be the largest configuration of the physical area where the Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town within the ten (10) years immediately preceding the application seeking approval for such Solar Energy System. This provision is specifically intended to prevent any owner of land from subdividing such land into smaller parcels that would permit siting of multiple Solar Energy Systems on what would have otherwise been a lot or parcel that was restricted to one Solar Energy System that would not exceed 25 acres of coverage.
- j. Vegetation and Habitat. Type 2 Ground Mounted Solar Energy System owners/developers shall develop and provide a written vegetation management plan which shall be approved by the PBD to implement and maintain native, non-invasive plants and vegetation under and around the Solar Panels, such plantings to provide foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native, non-invasive plant species and seed mixes.
- k. If a Type 2 Ground Mounted Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the current guidelines as established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects. If such state guidelines and this local law are in conflict, the stricter requirements in each shall apply.
- l. Agrivoltaics. Agrivoltaics or dual-use solar is the practice of co-locating solar energy production and agricultural operations, including but not limited to sheep grazing, bee keeping, pollinator planting, and crop production. Agrivoltaics may require site-specific features, such as: specialized fencing; customized planting/seeding; access to water, electric and parking; and design specifications for solar panel arrangement and ground-to-panel heights, among others. If agrivoltaics is or may occur on the solar system site at any time during operation of the solar system, a detailed Agrivoltaics Integration Plan shall be submitted to, and its contents approved by the PBD in the initial application and prior to commencement of construction of the solar energy system. Such plan shall be designed for dual-use activities by a Professional Engineer and supported by a state licensed Biologist/Botanist. Soil testing and forage testing shall be required by the PBD prior to construction and at yearly intervals throughout operation to determine suitability and safety for agrivoltaic uses and pollinators. Proposed projects shall ensure that pesticide applications will not be utilized in areas with pollinator plantings, and that appropriate signage shall be posted in and around such planted areas. The Plan shall require that maintenance of the dual-use system be timely and continual, and that a Town representative inspect same at least monthly or more often to ensure that the system is operating efficiently and to ensure that the pollinator plantings and/or forage are fully established and persist over time. Project details and specific site features associated with the agrivoltaic operations shall be included in the Site Plan, Operations and Maintenance Plan, and the Emergency Response Plan and protocols.

D. Other Regulations for Type 2 Systems:

- 1. Project Engineer and Environmental Monitor. The Town shall hire a Project Professional Engineer to assist the Town, its Boards and the ZEO from the time of submission of the initial application through completion and approval of construction of the Solar Energy System, its operation, and its final decommissioning. Pre-construction and construction conferences shall be held prior to commencement of construction and at least monthly after construction commences. The time

and place of each conference shall be decided by the Town. At a minimum, the following shall attend: the Town Engineer for this project, the Town ZEO, other Town officials including the Highway Superintendent, the Applicant, the proposed system owner, the Landowner, representatives of other public agencies interested in this project and such other persons as the Town Project Engineer requests. The topics of each conference shall be set by the Town Engineer and shall be utilized among other things to coordinate construction activities, ensure compliance with all required permits, approve or disapprove minor changes and to prevent, mitigate and repair damage to the site and/or public property. The Town can additionally hire an expert individual or firm as an Environmental Monitor throughout from the initial application process through decommissioning to protect all natural resources on site. The extent of monitoring shall be determined by the Project Engineer. All costs of the Project Engineer and Environmental Monitor shall be borne by and paid by the Applicant as set forth in subparagraph 6 directly below.

2. General complaint process. During construction, the ZEO can issue a stop work order at any time for any violations of a Special Use Permit approval or condition thereof, Site Plan approval or condition thereof or Building Permit. During as well as after construction is complete, the permit holder of a Type 2 Solar Energy System shall at all times establish and notify the Town ZEO and ZBA of the system's contact person(s), including name, address, telephone number and e-mail address (if available) for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements. All communications from the ZEO shall be effective immediately if delivered personally or sent by electronic means. If sent by mail, the same shall be effective three (3) days after mailed.
3. Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within six (6) months of such approvals, or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force or effect at law.
4. Inspections. Upon reasonable notice at any time during the life of the system, the Town Project Engineer, the ZEO, the Town's Environmental Monitor (EM), and/or their designees, may enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with all requirements or conditions of this Article or any approval given, or permit issued pursuant to this Article. During construction, the applicant's/ project owner's engineer shall inspect all of the construction on at least a weekly basis, and submit a written report to the Town's Project Engineer no later than two (2) business days thereafter. Once construction is complete, an operating permit is issued, and operation begins, then the ZEO shall inspect the premises and operation for compliance at least once per month for the first six (6) months, and then at least once every six months thereafter, or more, if necessary, as deemed by the ZEO, throughout the life of the system. Consent is not required, and the Project Engineer, ZEO or EM may enter forcibly if necessary. Except in case of emergency, twenty-four (24) hour notice by telephone or other electronic means to the owner/operator or designated contact person shall be deemed reasonable notice. The Town Engineer, ZEO, EM and/or their delegates may enter the premises without notice in case of emergency as determined by law enforcement, or local fire chief or other emergency personnel. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town at any time upon a determination by the ZEO that damage to such system may have occurred. Additionally, every five (5) years during the life of each type 2 ground-mounted solar energy system, soil sampling of the site shall be conducted by an agency hired by the Town to determine if any damage is occurring to the soil(s). A copy of the written report for each aforesaid inspection shall be submitted to the ZEO and EM as soon as possible. All fees and expenses associated with these inspections, samplings and testing shall be borne entirely by the permit holder and shall be reimbursed to the Town within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges shall result in suspension of any Special Use Permit granted and all operation of the system until such charges are paid in full. The Town reserves the right to also levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located. Further, the ZEO shall notify the then current owner of the land, owner and operator of the system and leaseholders, if any, of the land and/or system of all damage and/or violations found, the remedial correction(s) that must be made, the time when the corrections must be made which shall

not exceed ninety (90) days from the date of notice, and that if such corrections are not made in such time, this local law hereby requires that the special use permit for such system shall then be immediately suspended and the system shall cease operation until such corrections are made to the ZEO's satisfaction. All then current landowners, current owners and operators of the Type 2 system and all current leaseholders must immediately notify the ZEO of their names, physical addresses, post office addresses, email addresses, telephone numbers and like information for each of their contact persons, as well as changes to all such information as soon as it **occurs**.

5. After completion of construction of a Solar Energy System, the Applicant/ proposed solar energy system owner shall provide a post- construction certificate from a Professional Engineer registered in New York State, stating that the Solar Energy System complies with all applicable laws, local laws, codes, rules and regulations and industry practices and has been constructed and is operating according to the design plans and all conditions and requirements of the site plan and special use permit. As a condition of operation of the system, such construction as well as such certificate shall be reviewed by and approved by the ZBA and the PBD with the assistance of their consultants. Until such approvals are had and the ZEO then issues an operating permit, the system shall not be placed in operation.
6. Town costs shall be borne by applicant. At its sole discretion, the Town Board, or the PBD and/or the ZBA with approval of the Town Board, shall have the absolute right from the date of first application through the entire life of the system and decommissioning for a Type 2 Solar Energy System to hire one or more private consultants to assist such Board and its officials in properly fulfilling all of their duties, including but not limited to the permit application process, system construction, revision, and/or alteration, and the remedying of violations throughout the life of the system and decommissioning. Such consultants may include but are not limited to a professional engineer(s), attorney(s), planning consultant(s), environmental monitors, soils experts and/or other specialists. All expenses incurred by the Town and its officials (and through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time and starting with the application process and continuing through final decommissioning of the system, any of said Boards may require that Applicant furnish a deposit in advance in an amount that the Town in its sole discretion deems sufficient to be used for reimbursement of such expenses. The application submission shall be accompanied by the initial sum of Fifty Thousand Dollars (\$50,000.00) (see section 1404A above). Any such deposit shall be held in a non-interest-bearing account and shall be used to reimburse the Town for expenses that have been incurred or may reasonably be expected to be incurred as a result of such consultants. Should such deposit be depleted, either Board may require that additional monies be deposited with the Town by a date certain. A reviewing Board may suspend indefinitely the review of any application or the continued operation of the system as a result of the failure to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town and/or New York State law, rule or regulation relating to the timing of issuance of decisions for such applications or the continued operation of a system. This obligation is the joint and several duties of the original landowners, system owner(s) and operator(s), leaseholders and all of their agents, successors and assigns.
7. Emergency Training. All emergency training for all local village, town and county emergency personnel including fire, law enforcement and ambulance) to properly deal with all emergencies peculiar to an energy site shall be paid for by the then current solar energy system owner and operator. All terms in subparagraph 6 directly above concerning advance deposit, payment, and suspension upon failure to pay shall apply.
8. The NYS Agriculture and Markets Guidelines for Solar Energy Projects Construction Mitigation for Agricultural Lands then in effect shall be followed, except to the extent any requirements herein are stricter. The terms of such guidelines are incorporated by reference hereat and made a part of this local law. The current internet address to said state guidelines is http://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf

§1405. General Regulations. The placement, construction, and major modification of all Solar Energy Systems within the boundaries of the Town of North Dansville shall be permitted only as follows:

- A. Any inconsistent provisions of this zoning law or any other local laws, ordinances, rules or regulations of the Town of North Danville which may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
- B. All Solar Energy Systems existing on the effective date of this Article shall be “grandfathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction or additions or modifications other than routine maintenance on pre-existing systems shall comply with all of the requirements of this Article.
- C. All new Solar Energy Systems and all additions and modifications to any pre-existing Solar Energy System shall be designed, erected, and installed in accordance with all applicable laws, codes, rules, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of North Dansville.
- D. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.
- E. No Solar Panels or other Solar Energy Equipment used in any Solar Energy System shall utilize or contain any amount of per- and polyfluoroalkyl substances (PFAS) including PFOA, PFOS, and GenX chemicals, or any other substances then proscribed by state or federal agencies.
- F. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer’s badge, safety information and equipment specification information.
- G. For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, the current owner and operator and their phone numbers, disconnect and other emergency shutoff information, and each of their 24-hour immediate emergency contact information. It shall all be clearly displayed on a light reflective surface.
- H. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- I. Knox Boxes. All Type 2 facilities shall have a secured Knox Box at the front gate containing keys to all entry gates to the facility and to all secured structures therein. An entry key to the Knox Box shall be always supplied to the ZEO and to the local Fire Chief, both of whom shall record all their entries to the facility at the time of each entry.
- J. The Town has opted out of the pilot program pursuant to Real Property Tax Law section 487. The entire solar energy system shall be taxed at full valuation as determined by the Town Assessor. However, if both sides are agreeable, a PILOT agreement can still be entered into by the Town and owner.

§1406. Abandonment and Decommissioning.

- A. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the ZEO within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative or abandoned and thus discontinued after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or 90 days without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
- B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System can be made by the ZEO, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice of such determination and the facts on which it is based by personal service, email, or certified mail. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.

- C. Decommissioning. All Solar Energy Systems shall be decommissioned, immediately where the Special Use Permit or Site Plan approval has been revoked by the ZBA or the PBD, or if the Solar Energy System has been deemed by the ZEO to be inoperative or abandoned for a period of more than 90 days (which time can be extended in the sound discretion of the Town Board), with all solar energy material and equipment, piers and foundations, and all other man-made material related thereto removed and the parcel(s) of land and its soil restored to their pre-development condition pursuant to the Decommissioning Agreement. The responsibility to decommission and all such costs related thereto shall be the joint and several responsibilities of the initial permit holder, owner of the solar energy system and operator thereof, the owner of the real property upon which the Solar Energy System is located, all leaseholders, and all of their successors and assigns. If the past or present permit holder, owner, or operator and/or owner of the real property upon which the Solar Energy System is located does not decommission said Solar Energy System as required by the Decommissioning Agreement, the Town Board may complete removal and decommissioning as set forth in the Decommissioning Agreement. To the extent the Town's costs to fully decommission the system are not paid by said decommissioning surety bond, the Town can seek redress against all responsible parties for the balance thereof and can also levy said balance onto the real property tax bill associated with the property upon which the Solar Energy System was located. Decommissioning of all Commercial Solar Energy Systems shall be in accordance with the Decommissioning Agreement required by §1404 above.

§1407. Suspensions and Revocation.

If the Applicant or its successor in title/ownership of any Type 2 Solar Energy System violates any of the conditions of its Special Use Permit, Site Plan approval or violates any portion of this local law or any other local, state, or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the ZBA and PBD hold a joint hearing on the alleged violations, at which the Applicant or its successor in title/ownership shall have an opportunity to be heard and present evidence in defense of the allegations of such violations. The ZBA shall have the right to suspend the special use permit and operation of a Type 2 system as set forth above in this article.

The revocation process shall be as follows:

- A. The ZEO shall serve on the current solar energy system owner and all other parties responsible a written Code Compliance Order stating:
1. The alleged facts constituting each violation, referencing each section of this law and/or the special use or other requirement permit that is violated.
 2. The corrections that must be made to cure each violation alleged.
 3. The time by which each correction must be made.
 4. A warning that failure to comply can result in revocation of the Special Use Permit, the decommissioning of the system and subject all violators to all fines and penalties imposed by this and any other laws.
 5. The right of the owner and/or other parties responsible to appeal said order to the ZBA. However, said appeal does not suspend the time to comply with said order, which time shall continue.
- B. If full compliance is not made, a due process hearing shall be held before the ZBA.
1. The hearing before said ZBA shall occur at such time and place as the ZBA shall schedule but no later than twenty (20) days after corrections were ordered to be completed.
 2. At least ten (10) days before such hearing, the violators must serve on the ZBA and the Town Attorney a written answer to each alleged violation setting forth all their defenses and mitigating factors if any. Failure to do so shall constitute a default allowing the ZBA to make its decision without a hearing.

3. At the hearing, the Town shall have the burden of proof and shall first establish a prima facie case.
4. The violators shall have the right to attend and present all relevant evidence on their behalf.
5. Within fourteen (14) days after the hearing is completed, the ZBA shall render a written decision and order specifying its factual findings, its determinations, and if the violation(s) and failure to timely comply with said order are found, the remedies imposed against each violator and/or other party responsible. If revocation is determined, the requirements of the decommissioning agreement shall become effective immediately.

§1408. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.